



# California Regulatory Notice Register

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The California Regulatory Notice Register is an official state publication of the Office of Administrative Law containing notices of proposed regulatory actions by state regulatory agencies to adopt, amend or repeal regulations contained in the California Code of Regulations. The effective period of a notice of proposed regulatory action by a state agency in the California Regulatory Notice Register shall not exceed one year [Government Code § 11346.4(b)]. It is suggested, therefore, that issues of the California Regulatory Notice Register be retained for a minimum of 18 months.

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## PROPOSED ACTION ON REGULATIONS

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### TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission, under the authority vested in it by section 83112 of the Government Code, proposes to adopt, amend, or repeal regulations in title 2, division 6 of the California Code of Regulations. The Fair Political Practices Commission will consider the proposed regulations at a public hearing on or after **May 11, 2006**, at approximately **9:45 a.m.** Written comments must be received at the Commission offices no later than **5:00 p.m. on May 9, 2006**.

#### BACKGROUND/OVERVIEW

Government Code section 84308 provides limitations on campaign contributions to officers in proceedings before certain types of agencies and requires disclosure of those contributions.

Proposed new regulation 18438.5 would adopt a conflict-of-interest standard for contributions made that are subject to the provisions of Government Code section 84308. Under this standard, a party to a proceeding subject to the provisions of section 84308 would be required to aggregate its contributions with those made from a parent, subsidiary, or otherwise related business entity (as those terms are defined in 2 Cal. Code Regs. § 18703.1(d)) of the party, and made to an officer in the proceeding.

The proposed amendments to regulation 18438.8 would require a party to disclose on the record of the proceeding the name of any person who is a parent, subsidiary, or otherwise related business entity of the party, as specified.

#### REGULATORY ACTION

Adopt 2 Cal. Code Regs. § 18438.5: The Commission may consider whether regulation 18438.5 should be adopted to apply a conflict-of-interest standard in aggregating contributions under Government Code section 84308.

The proposed regulatory language, which may be examined by the Commission, is limited to aggregation of contributions under section 84308 and does not affect the aggregation rules applicable in other provisions of the Act.

Amend 2 Cal. Code Regs. § 18438.8: The Commission may consider whether regulation 18438.8 should be amended to provide additional disclosure requirements by a party in a proceeding, by including the name of any person who is a parent, subsidiary, or otherwise related business entity of the party. Optional language is included to only require the disclosure of such persons if the persons make contributions to an officer of the agency. The disclosure would be required at specified time periods once a proceeding is commenced and while it is pending. Optional language would also require the disclosure for 3 months after the proceeding. Other proposed amendments would delete unnecessary references.

#### SCOPE

The Commission may delete provisions, adopt the language noticed herein, or choose new language to implement its policy regarding aggregation of contributions under section 84308 and disclosure of the contributions.

#### FISCAL IMPACT STATEMENT

Fiscal Impact on Local Government. This regulation will have no fiscal impact on any local entity or program.

Fiscal Impact on State Government. This regulation will have no fiscal impact on any state entity or program.

Fiscal Impact on Federal Funding of State Programs. This regulation will have no fiscal impact on the federal funding of any state program or entity.

#### AUTHORITY

Government Code section 83112 provides that the Fair Political Practices Commission may adopt, amend, and rescind rules and regulations to carry out the purposes and provisions of the Political Reform Act.

#### REFERENCE

The purpose of these regulations is to implement, interpret, and make specific the procedures for aggregating contributions under section 84308 and to provide adequate public disclosure of those contributions.

#### CONTACT

Any inquiries should be made to William J. Lenkeit, Fair Political Practices Commission, 428 J Street, Suite

800, Sacramento, CA 95814; telephone (916) 322-5660 or 1-866-ASK-FPPC. Proposed regulatory language can be accessed at [www.fppc.ca.gov](http://www.fppc.ca.gov).

## TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission, under the authority vested in it by section 83112 of the Government Code, proposes to adopt, amend, or repeal regulations in Title 2, Division 6 of the California Code of Regulations. The Fair Political Practices Commission will consider the proposed regulations at a public hearing on or after **May 11, 2006 at 9:45 a.m.** Written comments must be received at the Commission offices no later than **5:00 p.m. on May 9, 2006.**

### BACKGROUND/OVERVIEW

The proposed amendments to regulation 18942 under the Political Reform Act (Government Code sections 81000 – 91014) relate to “gifts” received through attendance of wedding receptions, birthdays, holidays and other similar occasions. These changes are proposed, in part, to clarify the scope of regulation 18946.2(b), which was amended last year to provide for reporting of invitation-only events — such as a banquet, party, gala, celebration or similar function — by public officials and candidates. Regulation 18946.2(b) requires that an official or candidate attending an invitation-only event, report his or her pro rata share of the cost of the event. The language of this regulation is broad enough that it encompasses attendance at weddings, birthday parties and similar special events of personal significance. Thus an official in attendance must report his or her pro rata share of the cost of the event, if his or her pro rata share is \$50 or more. In addition, an official would also be subject to the \$360 gift limit and disqualification rules.

### REGULATORY ACTION

The Commission will consider amending 18942 subdivision (a)(8), consistent with the exception under section 89503(e)(2). These amendments would clarify that food, drink, entertainment and nominal benefits received by an official attending an event such as a wedding reception, birthday, holiday or other similar occasion fall under the “gifts exchanged” exception, and

therefore are not subject to gift limits and reporting rules so long as the gifts exchanged are not substantially disproportionate in value.

The Commission may adopt the language noticed in these proposed regulations, or it may choose new language to implement its decisions concerning the issues identified above or related issues.

### FISCAL IMPACT STATEMENT

Fiscal Impact on Local Government. These regulations will have no fiscal impact on any local entity or program.

Fiscal Impact on State Government. These regulations will have no fiscal impact on any state entity or program.

Fiscal Impact on Federal Funding of State Programs. These regulations will have no fiscal impact on the federal funding of any state program or entity.

### AUTHORITY

Section 83112 provides that the Fair Political Practices Commission may adopt, amend, and rescind rules and regulations to carry out the purposes and provisions of the Political Reform Act.

### REFERENCE

The purpose of these regulations is to implement, interpret and make specific Government Code sections 82028, 87100, 87103, 87207, 87302 and 89503.

### CONTACT

Any inquiries should be made to Emelyn Rodriguez, Fair Political Practices Commission, 428 J Street, Suite 800, Sacramento, CA 95814; telephone (916) 322-5660 or 1-866-ASK-FPPC. Proposed regulatory language can be accessed at [www.fppc.ca.gov](http://www.fppc.ca.gov).

### ADDITIONAL COMMENTS

After the hearing, the Commission may adopt or repeal the proposed regulations if they remain substantially the same as described or as in the text originally made available to the public. The Commission may make changes to the proposed regulations before their adoption or repeal.

## TITLE 4. CALIFORNIA GAMBLING CONTROL COMMISSION

### NOTICE OF PROPOSED RULEMAKING

Title 4. Business Regulations  
Division 18: California Gambling  
Control Commission  
Chapter 7. Conditions of Operation for  
Gambling Establishments  
Article 6. Program for Responsible Gambling

The California Gambling Control Commission (“Commission”) proposes to adopt the regulation described below after considering all comments, objections, or recommendations regarding the proposed action.

### PROPOSED REGULATORY ACTION

The Commission proposes to adopt Article 6 of Chapter 7 of Division 18 of Title 4 of the California Code of Regulations, concerning responsible gambling.

### PUBLIC HEARING

At this time, the Commission has not scheduled a public hearing. Any interested person or his or her duly authorized representative may request a hearing pursuant to Government Code section 11346.8 no later than 15 days prior to the close of the comment period.

### WRITTEN COMMENT PERIOD

**April 7 — May 23, 2006**

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Commission at any time during the 45-day public comment period. To be considered for summary and response, all written comments must be received no later than 5:00 p.m., May 23, 2006.

Written comments for the Commission’s consideration should be directed to:

Heather Hoganson, Staff Counsel  
California Gambling Control Commission  
2399 Gateway Oaks Drive, Suite 100 Sacramento,  
CA 95833-4231  
E-mail: [hhoganson@cgcc.ca.gov](mailto:hhoganson@cgcc.ca.gov)  
FAX 916-263-0452.

### AUTHORITY AND REFERENCE

Authority for the proposed regulation is provided by various provisions of the Gambling Control Act, which

may be found in Business and Professions Code sections 19800 through 19980. In particular, Business and Professions Code sections 19811, 19823, 19840, 19841(o), and 19920, provide authority to enact this regulation.

The reference citations are as follows: the proposed regulations implement, interpret, or make specific Business and Professions Code sections 19801 and 19920, and Welfare and Institutions Code section 4369.4.

### INFORMATIVE DIGEST AND POLICY STATEMENT OVERVIEW

The legislature has declared that “gambling can become addictive” (Business and Professions Code, section 19801, subdivision (b)), and vested in the Commission jurisdiction and supervision over gambling establishments (cardrooms).

The proposed regulation would direct gambling establishments to post information about problem gambling and to train their employees about the nature and symptoms of problem gambling and assisting patrons in obtaining information about problem gambling programs. The regulation would also allow persons to “opt-out” of receiving direct-mail marketing brochures which may entice them into gambling establishments and would allow persons to block themselves in advance from the opportunity to cash checks or obtain credit from a gambling establishment. An individual could also exclude themselves from one particular cardroom or from all cardrooms in California. A penalty may be assessed for any cardroom that does not comply with the regulation.

### DISCLOSURES REGARDING THE PROPOSED ACTION

**Mandate on local agencies and school districts:** These regulations do not impose a mandate on local agencies or school districts.

**Cost or savings to any state agency:** None.

**Cost to any local agency or school district that must be reimbursed in accordance with Government Code section 17561:** None

**Other non-discretionary cost or savings imposed upon local agencies:** None

**Cost or savings in federal funding to the state:** None

**Cost impact on representative private person or business:** A licensee may be liable for penalties and/or costs if found to have violated the provisions of this article. There may be minor costs to licensees for training of employees.

**Impact on Business:** The Commission has made an initial determination that the proposed regulatory



changes will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

**Significant effect on housing costs:** The Commission has made an initial determination that the proposed regulatory action would not affect housing costs.

**Effect on small business:** The Commission has made an initial determination that, in the event that a cardroom is considered a small business, the effect these regulations will have on small business will be minor.

#### CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5(a)(13), the Commission must determine that no reasonable alternative considered by the Commission or that has otherwise been identified and brought to the attention of the Commission would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

#### ASSESSMENT REGARDING CREATION OR ELIMINATION OF JOBS IN CALIFORNIA

The Commission has made an assessment and determined that the adoption of the proposed regulation will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

#### CONTACT PERSONS

Inquiries concerning the substance of the proposed action should be directed to:

Heather Hoganson, Counsel, California Gambling Control Commission,  
2399 Gateway Oaks Drive,  
Suite 100 Sacramento, CA 95833-4231  
Telephone: 916-263-0490, Fax: 916-263-0452, E-mail: hhoganson@cgcc.ca.gov.

Requests for a copy of the proposed text of the regulation, the initial statement of reasons, the modified text of the regulation, if any, or other technical information upon which the rulemaking is based should be directed to:

Pam Ramsay, California Gambling Control Commission,  
2399 Gateway Oaks Drive,  
Suite 100 Sacramento, CA 95833-4231  
Telephone: 916-263-8111, Fax: 916-263-0499.

#### AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Commission will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at the office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulation, and the Initial Statement of Reasons. A copy may be obtained by contacting Pam Ramsay at the address or telephone number listed above or accessing the Commission's website at <http://www.cgcc.ca.gov>. Upon its completion, the Final Statement of Reasons will be available and copies may be requested from the Regulations Coordinator or viewed on the website.

#### AVAILABILITY OF CHANGED OR MODIFIED TEXT

Following the public hearing, the Commission may adopt the proposed regulation substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the modified text, with changes clearly indicated, will be made available to the public for at least 15 days prior to the date on which the Commission adopts the regulation. Requests for copies of any modified regulation should be sent to the attention of Pam Ramsay at the address indicated above.

The Commission will accept written comments on the modified regulation for 15 days after the date on which it is made available.

### TITLE 4. CALIFORNIA HORSE RACING BOARD

#### NOTICE OF PROPOSAL TO AMEND RULE 1433. APPLICATION FOR LICENSE TO CONDUCT A HORSE RACING MEETING

The California Horse Racing Board (Board) proposes to amend the regulation described below after considering all comments, objections or recommendations regarding the proposed action.

#### PROPOSED REGULATORY ACTION

The Board proposes to amend Rule 1433, Application for License to Conduct a Horse Racing Meeting. The proposed amendment states that effective January 1, 2008, no racing association that operates four or more continuous weeks of thoroughbred racing in a calendar year may be licensed to conduct a horse racing meeting

at a facility that has not installed a polymer synthetic type racing surface.

#### PUBLIC HEARING

The Board will hold a public hearing starting at **9:30 a.m., Thursday, May 25, 2006**, or as soon after that as business before the Board will permit, at the **Los Alamitos Race Course, 4906 Katella Avenue, Los Alamitos, California**. At the hearing, any person may present statements or arguments orally or in writing about the proposed action described in the informative digest. It is requested, but not required, that persons making oral comments at the hearing submit a written copy of their testimony.

#### WRITTEN COMMENT PERIOD

Any interested persons, or their authorized representative, may submit written comments about the proposed regulatory action to the Board. The written comment period closes at **5:00 p.m., on May 22, 2006**. The Board must receive all comments at that time; however, written comments may still be submitted at the public hearing. Submit comments to:

Harold Coburn, Regulation Analyst  
California Horse Racing Board  
1010 Hurley Way, Suite 300  
Sacramento, CA 95825  
Telephone (916) 263-6397  
Fax: (916) 263-6042  
E-Mail: [harolda@chr.ca.gov](mailto:harolda@chr.ca.gov)

#### AUTHORITY AND REFERENCE

Authority cited: Sections 19420 and 19440, Business and Professions (B&P) Code. Reference: Sections 19480 and 19562, B&P Code.

B&P Code Sections 19420 and 19440 authorize the Board to adopt the proposed regulation, which would implement, interpret or make specific Sections 19481 and 19562, B&P Code.

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

B&P Code Section 19420 states jurisdiction and supervision over meetings in California where horse races with wagering on their results are held, and over all persons or things having to do with the operation of such meetings, is vested in the Board. B&P Section 19440 provides that the Board shall have all powers necessary and proper to enable it to carry out fully and effectually

the purposes of this chapter. Responsibilities of the Board shall include, but not be limited to, adopting rules and regulations for the protection of the public and the control of horse racing and pari-mutuel wagering. B&P Code Section 19481 provides that in performing its responsibilities, the Board shall establish safety standards governing the uniformity and content of the track base and racing surface, and other track facilities to improve the safety of horses, riders, and workers at the racetrack. B&P Code Section 19562 states the Board may prescribe rules, regulations, and conditions, consistent with the provisions of this chapter, under which all horse races with wagering on their results shall be conducted in this State.

Safety at racetrack facilities is an ongoing concern of the Board. An important component of the Board's safety program is the condition of the racetrack. In California, every racetrack has an organic dirt track. Such tracks require constant maintenance to maintain consistency in the surface from day to day. In addition, organic tracks are affected by weather, which can cause track conditions to change from morning to afternoon. The inconsistency in organic dirt racetracks is seen as a major reason for injuries and breakdowns in racehorses. This is also a concern for jockeys and other racing participants, who face the possibility of serious injury when a horse goes wrong or breaks down when training or during a race. California trainers recently raised concerns about the quality of organic racetracks. The track safety committee of California Thoroughbred Trainers (CTT) reported that injuries to racehorses are seriously depleting the racing population in California, which is reflected in increasingly smaller fields. The CTT committee stated California has become a less desirable racing venue — in part — because dirt racing surfaces contribute to injuries and breakdowns. While the Board and the industry have an ongoing commitment to work towards making the state's organic racetracks safer in the short term, a long-term solution is seen in synthetic racetrack surfaces. These synthetic surfaces are currently in use in Europe and in some parts of the United States and have demonstrated a safety record that is believed by many to be superior to traditional dirt tracks. Several of California's thoroughbred racing associations have initiated plans to replace their dirt tracks with synthetic surfaces. While the industry has taken steps toward implementing synthetic racetrack surfaces, the Board wishes to reinforce its commitment to this change by establishing a point in time when the goal of installing synthetic racing surfaces should be completed. The proposed amendment to Board Rule 1433 provides that as of January 1, 2008, a racing association operating four weeks or more of continuous thoroughbred racing in a calendar year shall not be licensed to conduct a horse racing meeting at a facility that has not

installed a polymer synthetic type racing surface. In California there are five "major" thoroughbred race-tracks that run meetings of four or more continuous weeks. The racetracks are: Del Mar Race Track; Santa Anita Park Race Track; Hollywood Park Race Track; Bay Meadows Race Track; and Golden Gate Fields Race Track. The Board realizes that not all racetracks that run thoroughbred meetings could meet the target date, or could afford to install a synthetic surface, so the California Fair Circuit, with meetings of fewer than four weeks, is exempt. In addition, harness and quarter horse racing venues are not affected by the proposed amendment, as the suitability of synthetic racing surfaces for these breeds has not been determined.

#### DISCLOSURE REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: none.

Cost or savings to any state agency: There is an undetermined cost to the 22<sup>nd</sup> District Agricultural Association in compliance with the proposed action.

Cost to any local agency or school district that must be reimbursed in accordance with Government Code Section 17500 through 17630: none.

Other non-discretionary costs or savings imposed upon local agencies: none.

Cost or savings in federal funding to the state: none.

The Board has made an initial determination that the proposed amendment of Rule 1433 will not have a significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states.

Cost impact on representative private persons or businesses: The Board is not aware of any cost impacts that a representative private person would necessarily incur in reasonable compliance with the proposed action. A representative business (one of the five affected race tracks) would incur costs of up to eight million dollars in reasonable compliance with the proposed action.

Significant effect on housing costs: none.

The adoption of the proposed amendment of Rule 1433 will not (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing businesses within California; or (3) affect the expansion of businesses currently doing business within California.

Effect on small businesses: none. The proposal to amend Rule 1433 does not affect small businesses because horse racing is not a small business under Government Code Section 11342.610.

#### CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5, subdivision (a)(13), the Board must determine that no reasonable alternative considered, or that has otherwise been identified and brought to the attention of the Board, would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome on affected private persons than the proposed action.

The Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation at the scheduled hearing or during the written comment period.

#### CONTACT PERSON

Inquiries concerning the substance of the proposed action and requests for copies of the proposed text of the regulation, the initial statement of reasons, the modified text of the regulation, if any, and other information upon which the rulemaking is based should be directed to:

Harold Coburn, Regulation Analyst  
California Horse Racing Board  
1010 Hurley Way, Suite 300  
Sacramento, CA 95825  
Telephone: (916) 263-6397  
E-mail: [harolda@chrb.ca.gov](mailto:harolda@chrb.ca.gov)

If the person named above is not available, interested parties may contact:

Jacqueline Wagner, Manager, Policy and  
Regulation Unit  
Telephone: (916) 263-6041

#### AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATION

The Board will have the entire rulemaking file available for inspection and copying throughout the rule-making process at its offices at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulation, and the initial statement of reasons. Copies may be obtained by contacting Harold Coburn, or the alternative contact person at the address, phone number or e-mail address listed above.

#### AVAILABILITY OF MODIFIED TEXT

After holding a hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulation substantially as described in



this notice. If modifications are made which are sufficiently related to the originally proposed text, the modified text, with changes clearly marked, shall be made available to the public for at least 15 days prior to the date on which the Board adopts the regulation. Requests for copies of any modified regulations should be sent to the attention of Harold Coburn at the address stated above. The Board will accept written comments on the modified regulation for 15 days after the date on which it is made available.

#### AVAILABILITY OF STATEMENT OF REASONS

Requests for copies of the final statement of reasons, which will be made available after the Board has adopted the proposed regulation in its current or modified form, should be sent to the attention of Harold Coburn at the address stated above.

#### BOARD WEB ACCESS

The Board will have the entire rulemaking file available for inspection throughout the rulemaking process at its web site. The rulemaking file consists of the notice, the proposed text of the regulation and the initial statement of reasons. The Board's web site address is: [www.chrb.ca.gov](http://www.chrb.ca.gov).

### TITLE 10. DEPARTMENT OF INSURANCE

45 Fremont Street, 24th Floor  
San Francisco, California 94105

#### NOTICE OF PROPOSED ACTION AND NOTICE OF PUBLIC HEARING

**Date: April 7, 2006**  
**RH02023855**

#### SUBJECT OF PROPOSED HEARING

The Insurance Commissioner proposes to adopt a regulation which will explain, clarify and implement the viatical settlement provisions of California Insurance Code, sections 10113.1 and 10113.2. This adoption will occur only after the Commissioner considers all comments, objections and recommendations regarding the proposed regulation. If adopted, this regulation will add Article 12.9, including new sections 2548.1 through 2548.8, to Title 10, Chapter 5, Subchapter 3, of the California Code of Regulations ("C.C.R.").

#### PUBLIC HEARING DATE AND LOCATION

A public hearing will be held to permit all interested persons the opportunity to present statements or arguments, orally or in writing, with respect to the proposed regulation at the following date, time and place:

**Date and time: Friday, June 9, 2006**  
**10:00 a.m.**

**Location: California Department**  
**of Insurance**  
**45 Fremont Street, Floor 22**  
**Hearing Room**  
**San Francisco, CA 94105**

#### Access to hearing rooms:

The building and room to be used for the public hearing are accessible to persons with mobility impairments. Persons with sight or hearing impairments are requested to notify the primary contact person (listed below) in order to make special arrangements, if necessary.

#### PRESENTATION OF WRITTEN COMMENTS

A person may submit written comments without, or in addition to, attending the public hearing. Written comments and questions should be addressed to the below primary contact person.

#### Primary contact person

Jennifer Chambers, Senior Staff Counsel  
California Department of Insurance  
45 Fremont Street, Floor 24  
San Francisco, CA 94105  
Telephone: (415) 538-4145  
Facsimile: (415) 904-5729

#### Backup contact person

George Teekell, Staff Counsel  
California Department of Insurance  
45 Fremont Street, Floor 21  
San Francisco, CA 94105  
Telephone: (415) 538-4390  
Facsimile: (415) 904-5490

#### Deadline for written comments

All written materials must be received by the Insurance Commissioner, addressed to the primary contact person at the address listed above, no later than 5:00 p.m. on June 9, 2006. Any written materials received after that time will not be considered.

#### Comments transmitted by E-mail or Facsimile

The Commissioner will accept written comments transmitted by e-mail provided they are sent to the fol-

lowing e-mail address: [chambersj@insurance.ca.gov](mailto:chambersj@insurance.ca.gov). The Commissioner will also accept written comments transmitted by facsimile provided they are directed to the attention of Jennifer Chambers and sent to the following facsimile number: (415) 904-5729. **Comments sent to other e-mail addresses or other facsimile numbers will not be accepted. Comments sent by e-mail or by facsimile are subject to the deadline set forth above for written comments.**

## AUTHORITY AND REFERENCE

The regulation will implement, interpret, and/or make specific the provisions of the California Insurance Code (“C.I.C” or “Insurance Code”) sections 10113.1 and 10113.2. Sections 10113.1 and 10113.2, along with section 790.10 provide the authority for this regulation.

## INFORMATIVE DIGEST

### Summary of Existing Law

CIC, sections 10113.1 and 10113.2 govern viatical settlements in California. A viatical settlement typically involves the sale to a third party purchaser of a life insurance policy upon the life of a person with a “catastrophic or life threatening illness.” The policy owner will receive compensation for the policy in exchange for a transfer or assignment of the policy to the purchaser. (See CIC, section 10113.1(a)(1).)

Existing law describes licensing requirements for transacting viatical settlements in California. Specifically, a person wishing to transact a viatical settlement must apply for a license, and the Commissioner can refuse to issue a license, whenever to do so would be “contrary to the interests of the public.” (CIC, section 10113.2(b).) Existing law, in addition, prescribes general procedures for revoking or suspending a viatical settlement license. (CIC, section 10113.2(b)(2).)

In addition, existing law prescribes procedures for approval of all viatical settlement forms. (CIC, section 10113.2(c)), as well as prescribes key disclosures that must be made to a viator prior to the sale of his or her life insurance policy. (CIC, section 10113.2(d).) Existing law also describes the Commissioner’s investigatory and examination powers over those transacting viatical settlement business in California (CIC, sections 10113.2(g) and (h)), power to issue cease and desist order as well as issue monetary penalties (CIC, sections 10113.2(i) and (j).)

### Policy Statement Overview

The proposed regulations are designed to clarify the viatical settlement statutes, and provide helpful guidelines on, for example, what constitutes a catastrophic or

life threatening illness, among other key definitions. The proposed regulations also contain provisions designed to protect the viator, including the requirement of key disclosures in writing to be made at the time an offer is made to the viator, as well as the requirement of an escrow account. Finally, the proposed regulations are designed to enhance the Commissioner’s ability to enforce the viatical statute’s licensing requirements, by providing specific grounds for the denial or revocation of such license, as well as clarifying that a provider cannot transfer to any nonlicensed third party any legal interest in a viatical settlement.

### Effect of Proposed Action

Existing law found at CIC sections 10113.1 and 10113.2, while providing a strong framework for the regulation of the viatical market in California, could benefit by clarification of key provisions of the law. For example, in order for the Commissioner to regulate a transaction involving a viatical settlement, the viator must have a “catastrophic or life threatening medical condition.” (CIC, section 10113.1(a)(1).) The code, however, does not define catastrophic or life threatening. Valuable staff time of the Department is spent in helping individuals determine whether or not a particular medical condition meets the statutory criteria, and therefore requires for the individuals involved in the transaction to be licensed.

Similarly, the proposed regulation contains important definitions of other words that the viatical settlement statute fails to define, including “entering into,” as the phrase is used in CIC, section 10113.1(a)(1). It has been the Commissioner’s long standing interpretation of CIC, section 10113.1(a)(1) that “entering into” a viatical settlement includes not simply the original transaction between the viator and the viatical settlement provider, but also encompasses any subsequent or contemporaneous transfers to third party investors or purchasers. Section 2548.2(b) provides an important clarification of the Commissioner’s consistent interpretation of this provision. The proposed regulation also clarifies that an interest in a viaticated life insurance policy cannot be transferred to any third party that is not licensed by the Commissioner; nor can it be transferred without first obtaining the viator’s written consent. (Section 2548.3.)

Insurance Code, section 10113.2 provides that any person entering into or soliciting viatical settlements must be licensed. The proposed regulations, at section 2548.2(d) also provide an important definition of “soliciting.” Consistent with the Department’s long-standing interpretation, the latter includes offering viatical settlements or viatical settlement investments to any person in the state, and requires the licensure of viatical settlement investment brokers. Similarly, the proposed

regulations, at sections 10113.2(f) and (h) contain important definitions of “viatical settlement broker” and viatical settlement provider, terms that are also not defined in the viatical settlement statutes.

CIC, section 10113.2(d) identifies disclosures that must be made to a viator at the time of the solicitation of a viatical settlement. The disclosures contained in section 2548.5 of the proposed regulations expand upon the Insurance Code provisions, and provide a list of disclosures that must be made in writing at the critical time an offer is being made to a viator. Such disclosures include the affiliation, if any, between the viatical settlement provider and broker and issuer of the insurance policy, and the affiliation, if any between the viatical settlement provider and the broker. The disclosures also require, in part, for the broker to disclose the amount of commission to be earned on the viatical settlement. In addition, proposed section 2548.6 requires the establishment of an escrow account.

CIC, section 10113.2(b)(2) allows the commissioner to revoke a person’s license following a hearing at which it is determined that to keep such license would be “contrary to the interests of the public.” Proposed section 2548.7 prescribes various practices that are prohibited by a viatical settlement licensee, thereby offering guidance as what types of conduct is deemed by the commissioner to present a conflict of interest, and to be otherwise “contrary to the interests of the public.” Section 2548.7(g) imposes a five-year records retention requirement. Proposed section 2548.8 offers critical guidance as to what constitutes grounds for revocation of licensure.

#### PUBLIC DISCUSSIONS OF PROPOSED REGULATIONS

Pursuant to Government Code, section 11345.45, the Department mailed an Invitation to Prenotice Public Discussions to industry, regulatory and consumer group representatives. Subsequently, the Department held a one-day workshop in order to receive comments about the proposed regulation. Input from workshop participants was taken into account in the formulation of the proposed regulations.

#### MANDATES ON LOCAL AGENCIES OR SCHOOL DISTRICTS

This proposed regulation does not impose any mandate on local agencies or school districts. There are no costs to any local agency or school district for which Part 7 (commencing with Section 17500) of Division 4 of the Government Code would require reimbursement.

#### COST OR SAVINGS TO STATE AGENCY OR SCHOOL DISTRICT IN FEDERAL FUNDING

The Commissioner has determined that the proposed regulations will result in no cost or savings to any state agency, no cost to any local agency or school district that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of the Government Code, no other nondiscretionary cost or savings imposed on local agencies, and no cost or savings in federal funding to the State.

#### ECONOMIC IMPACT ON BUSINESSES AND THE ABILITY OF CALIFORNIA BUSINESS TO COMPETE

The Commissioner has made the initial determination that the proposed regulations may have a significant, statewide adverse economic impact directly affecting business, including the ability of California business to compete with businesses in other states. The types of business impacted will be viatical settlement brokers and providers, and adverse economic impacts include the requirement for licensees to open an escrow account, and to prepare written disclosures at the time an offer is made to a viator, and to comply with a five-year records retention requirement. There may also be adverse economic impacts associated with the proposed regulation’s clarification that licensees cannot transfer an ownership interest in a viatical settlement contract without having the entity to which the interest is transferred itself be licensed. To the extent that some licensees may currently be transferring such interests, the statute’s clarification in this regard will reveal the unlawfulness of such activity and require a modification to such licensees’ business plans. Finally, there could be an adverse economic impact in requiring viatical settlement brokers to disclose the amount of their commissions. It is possible that when prospective viators learn of the amount of commission to be received by a broker, they may wish to pursue more competitive offers.

The Commissioner has not considered proposed alternatives that would lessen any adverse economic impact on business and invites interested parties to submit proposals. Submissions may include the following considerations:

- (i) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to businesses.
- (ii) Consolidation or simplification of compliance and reporting requirements for businesses.
- (iii) The use of performance standards rather than prescriptive standards.
- (iv) Exemption or partial exemption from the regulatory requirements for businesses.

## POTENTIAL COST IMPACT ON PRIVATE PERSONS OR BUSINESSES

The Commissioner has identified the following potential cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action: the cost of maintaining an escrow account, storing documents for five years and printing information required on the proposed regulation's disclosures to the viator. In addition, some licensees may be required to modify their business plans to ensure that they are not allowing the transfer of an interest in a viaticated insurance policy to a third party that is not licensed as a viatical settlement provider.

## FINDING OF NECESSITY

The Commissioner finds that it is necessary for the welfare of the people of the state that the regulations apply to businesses.

## EFFECT ON JOBS AND BUSINESSES IN CALIFORNIA

The Commissioner is required to assess any impact the regulations may have on the creation or elimination of jobs in the State of California, the creation of new businesses, the elimination of new businesses, and the expansion of businesses currently operating in the state. The Commissioner does not foresee that the proposed regulations will have any impact on any of the above but invites interested parties to comment on this issue.

## IMPACT ON HOUSING COSTS

The matters proposed herein will have no significant effect on housing costs.

## ALTERNATIVES

The Commissioner must determine that no reasonable alternative considered by the Commissioner or that has otherwise been identified and brought to the attention of the Commissioner would be more effective in carrying out the purposes for which the regulations are proposed or would be as effective and less burdensome to affected private persons than the proposed action. To date, no reasonable alternative to the proposed regulations is apparent. The Commissioner, however, invites public comment on alternatives to the regulation.

## IMPACT ON SMALL BUSINESS

The proposed regulation will impact small business to the extent that viatical settlement licensees will be required to open an escrow account, retain records of transactions for five years, and provide written disclosures at the time an offer is made to a viator. There may also be some impact associated with the Commissioner clarifying that licensees cannot transfer any interest in a viatical settlement to a third party that is not licensed, and brokers must disclose their commissions to prospective viators. The proposed regulations are likely to exert a positive impact on small business by helping to clean up business practices that could be detrimental to the consumer, thereby enhancing consumer confidence in the viatical settlement industry.

## COMPARABLE FEDERAL LAW

There are no existing federal regulations or statutes comparable to the proposed regulations.

## TEXT OF REGULATIONS AND INITIAL STATEMENT OF REASONS

The Department has prepared an initial statement of reasons that sets forth the reasons for the proposed regulations. The Commissioner also has available all the information upon which this proposed action is based. Upon request, the initial statement of reasons will be made available for inspection and copying. Requests for the initial statement of reasons or questions regarding this proceeding should be directed to the contact person listed above. Upon request, the final statement of reasons will be made available for inspection and copying once it has been prepared. Requests for the final statement of reasons should be directed to the contact person above.

The file for this proceeding, which includes a copy of the proposed regulations, the statement of reasons, the information upon which the proposed action is based, and any supplemental information, including any reports, documentation and other materials related to the proposed action that is contained in the rulemaking file, is available for inspection and copying **by prior appointment** at 45 Fremont Street, Floor 24, San Francisco, California, 94105, between the hours of 9:00 a.m. and 4:30 p.m., Monday through Friday.

## FINAL STATEMENT OF REASONS

Upon written or e-mail request, the final statement of reasons will be made available for inspection and copying once it has been prepared. Written requests for the final statement of reasons should be directed to the contact person listed above.



## AUTOMATIC MAILING

A copy of this notice, including the informative digest, which contains the general substance of the proposed regulations, will automatically be sent to all persons on the Insurance Commissioner's mailing list.

## WEBSITE POSTINGS

Documents concerning this proceeding are available on the Department's website. To access them, go to <http://www.insurance.ca.gov/>. Find, near at the top of the leftmost column, the pull down menu under the heading "Quick Links." Select the "Legal Information" link. On the "Legal Information" page, click on the "Proposed Regulations" link. When the "Search or Browse for Documents for Proposed Regulations" screen appears, you may choose to find the documents either by conducting a search or by browsing for them by name. To search, enter "RH02023855" (the Department's regulation file number for these regulations) in the search field. Alternatively, search using as your search term the California Insurance Code section number of a code section that the regulations implement (for instance, "10113.1"), or search by keyword ("viatical settlement," for example) Then, click on the "Submit" button to display links to the various filing documents.

To browse, click on the "Browse All Regulations" button near the bottom of the screen. A list of the names of regulations for which documents are posted will appear. Find in the list the "Viatical Settlement Regulation" link, and click it. Links to the documents associated with these regulations will then be displayed.

## AVAILABILITY OF MODIFIED TEXT OF REGULATIONS

If the regulations adopted by the Department differ from those which have originally been made available, but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Interested persons should request a copy of these regulations prior to the adoption from the contact person listed above.

## TITLE 10. DEPARTMENT OF INSURANCE

45 Fremont Street, 21st Floor  
San Francisco, California 94105

## NOTICE OF PROPOSED ACTION AND NOTICE OF PUBLIC HEARING

**File No. RH-06-091268**

Notice Date: March 24, 2006

Proposed Revisions to the Insurance Commissioner's Regulations pertaining to Experience Rating and Approval of Advisory Pure Premium Rates to be effective July 1, 2006.

## SUBJECT OF HEARING

Notice is hereby given that the Insurance Commissioner will hold a public hearing to consider the approval of advisory pure premium rates developed by the designated rating organization and an amendment to the California Workers' Compensation Experience Rating Plan—1995. The hearing will be held in response to a filing, submitted on March 24, 2006, by the Workers' Compensation Insurance Rating Bureau of California ("WCIRB").

## AUTHORITY AND REFERENCE

### Uniform Plans and Regulations

The workers' compensation experience rating regulations are set forth in Title 10, California Code of Regulations, Section 2353.1. The regulations were promulgated by the Insurance Commissioner pursuant to the authority granted by Insurance Code Section 11734.

### Pure Premium Rates

Pursuant to Insurance Code Section 11750.3, a rating organization is permitted to develop pure premium rates for submission to the Insurance Commissioner for issuance or approval. The Insurance Code provisions regarding State rate supervision operative January 1, 1995 do not authorize the Insurance Commissioner to require insurers to use the pure premium rates submitted by the designated rating organization and issued or approved by the Insurance Commissioner. Accordingly, the pure premium rates issued or approved by the Insurance Commissioner are advisory only.

## HEARING DATE AND LOCATION

A public hearing will be held to permit all interested persons the opportunity to present statements or argu-

ments, orally or in writing, with respect to the matters proposed in the WCIRB's filing, at the following date, time and place:

**April 27, 2006 — 9:30 A.M.**  
**California Department of Insurance**  
**22nd Floor Hearing Room**  
**45 Fremont Street**  
**San Francisco, California**

### INFORMATIVE DIGEST

Pursuant to Insurance Code Sections 11734 and 11751.5, the Insurance Commissioner has designated the WCIRB as his rating organization and statistical agent. As the designated rating organization and statistical agent, the WCIRB has developed and submitted for the Insurance Commissioner's approval pure premium rates and a revision to the California Workers' Compensation Experience Rating Plan—1995. The pure premium rates will be advisory only; however, adherence to the regulations contained in the California Workers' Compensation Experience Rating Plan—1995 is mandatory.

The pure premium rates recommended by the WCIRB to be effective July 1, 2006, as well as the amendment to the California Workers' Compensation Experience Rating Plan—1995, are detailed in the WCIRB's filing and summarized below.

### APPROVE PURE PREMIUM RATES

Pursuant to California Insurance Code Section 11750.3, the WCIRB has proposed advisory pure premium rates for approval by the Insurance Commissioner to be effective July 1, 2006 with respect to new and renewal policies as of the first anniversary rating date of a risk on or after July 1, 2006. The proposed advisory pure premium rates are 16.4% less than the January 1, 2006 advisory pure premium rates approved by the Insurance Commissioner.

The proposed pure premium rates applicable to new and renewal policies as of the first anniversary rating date of a risk on or after July 1, 2006 are based on (a) insurer losses incurred during 2005 and prior accident years valued as of December 31, 2005; (b) insurer loss adjustment expenses for 2004 and prior years; and (c) except as noted, the same methodologies underlying the approved January 1, 2006 advisory pure premium rates.

### AMEND CALIFORNIA WORKERS' COMPENSATION EXPERIENCE RATING PLAN—1995

The WCIRB recommends the following revisions to the California Workers' Compensation Experience

Rating Plan—1995 to become effective July 1, 2006 with respect to new and renewal policies as of the first anniversary rating date of a risk on or after July 1, 2006:

- Amend the Experience Rating Eligibility from \$20,300 to \$16,971 to reflect the proposed July 1, 2006 pure premium rate change.

### COSTS OR SAVINGS RESULTING FROM THE REGULATIONS

The Insurance Commissioner is authorized by law to promulgate advisory loss cost rates. These rates may or may not be adopted by insurance companies. To the extent they are adopted, they may result in lower costs.

### COST OR SAVINGS AND MANDATE TO LOCAL AGENCIES AND SCHOOL DISTRICTS

The Insurance Commissioner has determined that there will not be a cost increase or savings and there will not be any new programs mandated on any local agency or school district as a result of the proposed regulations, if adopted as proposed herein.

### IMPACT ON HOUSING COSTS

The Insurance Commissioner has determined that the proposed regulations will not have a significant effect on housing costs.

### IMPACT ON SMALL BUSINESSES

The Insurance Commissioner has determined that the proposed regulations will not have a significant effect on small businesses.

### COST IMPACT ON PRIVATE PERSONS OR ENTITIES

The Insurance Commissioner must determine the potential cost impact of the proposed regulations on private persons or businesses directly affected by the proposal. At this time, the Insurance Commissioner expects that the proposed regulations will not have a significant effect on private persons or entities.

### FEDERAL FUNDING TO THE STATE

The matters proposed herein will not affect any federal funding.

### NON-DISCRETIONARY COSTS OR SAVINGS

The proposed regulations will not impose any non-discretionary costs or savings to local agencies.

**COST OR SAVINGS TO STATE AGENCIES**

The matters proposed herein will not result in any cost or savings to State agencies, except for the State Compensation Insurance Fund.

**REIMBURSABLE COSTS**

There are no costs to local agencies or school districts for which Part 7 (commencing with Section 17500) of Division 4 of the Government Code would require reimbursement.

**COMPARABLE FEDERAL LAW**

There are no existing federal regulations or statutes comparable to the proposed regulations.

**ACCESS TO HEARING ROOMS**

The facility to be used for the public hearing is accessible to persons with mobility impairment. Persons with sight or hearing impairments are requested to notify the contact person for these hearings (listed below) in order to make special arrangements, if necessary.

**PRESENTATION OF ORAL AND/OR WRITTEN COMMENTS**

All persons are invited to submit written comments to the Insurance Commissioner prior to the public hearing on the proposed amendments contained in the WCIRB's filing. Such comments should be addressed to:

California Department of Insurance  
Attn: Christopher A. Citko, Esq.  
Senior Staff Counsel  
300 Capitol Mall, 17th Floor  
Sacramento, CA 95814  
(916) 492-3187

Any interested person may present oral and/or written testimony at the scheduled public hearing. Written comments and oral testimony will be given equal weight in the Insurance Commissioner's deliberations.

**DEADLINE FOR WRITTEN COMMENTS**

All written material, unless submitted at the hearing, must be received by the Insurance Commissioner at the

address listed above no later than 5:00 PM on Thursday, May 4, 2006.

**TEXT OF REGULATIONS AND STATEMENT OF REASONS AVAILABLE**

The Insurance Commissioner has prepared an Initial Statement of Reasons for the proposed regulations, in addition to the informative digest included in this Notice of Proposed Action and Notice of Public Hearing. The express terms of the proposed regulations as contained in the WCIRB's filing, the Notice of Proposed Action and Notice of Public Hearing and the Initial Statement of Reasons will be made available for inspection or provided without charge upon written request to the contact person for these hearings (listed above). The filing may also be accessed on the WCIRB's website at [www.wcirbonline.org/filings](http://www.wcirbonline.org/filings).

**ACCESS TO RULE MAKING FILE, CONTACT**

Any interested person may inspect a copy of or direct questions about the proposed regulations or other matters relative to this filing, the statement of reasons thereof, and any supplemental information contained in the rule-making file upon application to the contact person (listed above). The rule-making file will be available for inspection at 300 Capitol Mall, 17th Floor, Sacramento, California 95814, between the hours of 9:00 AM and 5:00 PM, Monday through Friday.

**AUTOMATIC MAILING**

A copy of this Notice, including the informative digest that contains the general substance of the proposed regulations, automatically will be sent to all persons on the Insurance Commissioner's Bulletins and Rulings, and California Government Code mailing lists.

**ADOPTION OF REGULATIONS**

Following the hearing, the Insurance Commissioner may adopt or approve regulations substantially as described in this Notice and informative digest or he may adopt or approve modified regulations. He also may refuse to adopt or approve the regulations. Notice of the Insurance Commissioner's action will be sent to all persons on the Insurance Commissioner's Bulletins and Rulings mailing list and to those persons who have otherwise requested notice of the Commissioner's action.

## TITLE 13. CALIFORNIA AIR RESOURCES BOARD

### NOTICE OF PUBLIC HEARING TO CONSIDER TECHNICAL AMENDMENTS TO THE MOTOR VEHICLE EVAPORATIVE AND EXHAUST EMISSIONS TEST PROCEDURES

The Air Resources Board (the Board or ARB) will conduct a public hearing at the time and place noted below to consider adoption of regulatory amendments to the Motor Vehicle Evaporative Emissions Test Procedures, Refueling Emission Test Procedures, and Exhaust Test Procedures. The amendments, collectively referred to as "Streamline Evap," will clarify and modify ARB's current test procedures and will also harmonize them with recently amended federal test procedures. The amendments will not affect the stringency of current exhaust or evaporative emission test procedures or associated emissions standards.

DATE: May 25, 2006

TIME: 9:00 a.m.

PLACE: California Environmental  
Protection Agency  
Air Resources Board  
Byron Sher Auditorium  
1001 I Street  
Sacramento, CA 95814

This item will be considered at a two-day meeting of the Board, which will commence at 9:00 a.m., May 25, 2006, and may continue at 8:30 a.m., May 26, 2006. This item may not be considered until May 26, 2006. Please consult the agenda for the meeting, which will be available at least 10 days before May 25, 2006, to determine the day on which this item will be considered.

If you have a disability-related accommodation need, please go to <http://www.arb.ca.gov/html/ada/ada.htm> for assistance or contact the ADA Coordinator at (916) 323-4916. If you are a person who needs assistance in a language other than English, please contact the Bilingual Coordinator at (916) 324-5049. TTY/TDD/Speech-to-Speech users may dial 7-1-1 for the California Relay Service.

### INFORMATIVE DIGEST OF PROPOSED ACTION AND POLICY STATEMENT OVERVIEW

**Sections Affected:** Proposed amendments to title 13, California Code of Regulations (CCR), section 1961 and the following test procedure incorporated by reference: "California Exhaust Emission Standards and Test Procedures for 2001 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Ve-

hicles," adopted August 5, 1999, as last amended August 4, 2005; 13 CCR section 1976 and the following test procedure incorporated by reference: "California Evaporative Emission Standards and Test Procedures for 2001 and Subsequent Model Motor Vehicles," as adopted August 5, 1999; and 13 CCR section 1978 and the following test procedure incorporated by reference: "California Refueling Emission Standards and Test Procedures for 2001 and Subsequent Model Motor Vehicles," adopted August 5, 1999, as last amended September 5, 2003.

#### **Background:**

#### **ARB's Current Evaporative and Exhaust Emission Test Procedures**

The ARB staff has worked with the automotive industry and with the United States Environmental Protection Agency (U.S. EPA) since 1996 to "streamline" or harmonize ARB and U.S. EPA evaporative emissions-related test procedures to reduce the test burden on manufacturers related to new vehicle certification and in-use vehicle compliance. On December 8, 2005, U.S. EPA adopted a direct final rule which, effective February 6, 2006, amended the federal evaporative and refueling emissions test procedures, dynamometer test provisions, and vehicle labeling regulations applicable to on-road light-duty vehicles, light-duty trucks, and heavy-duty vehicles up to 14,000 pounds Gross Vehicle Weight Rating. The comparable California motor vehicle test procedures do not currently reflect the new federal amendments.

#### **The Proposed Amendments**

Staff is proposing technical amendments to ARB's motor vehicle exhaust and evaporative emission regulations that would clarify and revise the current test procedures to achieve better harmonization with the recently amended corresponding federal test procedures. These amendments will reduce manufacturers' certification and in-use vehicle compliance emission testing burden related to evaporative/refueling standards without modifying the stringency of the procedures or the associated standards.

Currently, manufacturers demonstrate certification compliance with the California evaporative emission standards through a series of two specific test procedure sequences: 1) Three-Day Diurnal plus High-Temperature Hot Soak and Running Loss (3-day diurnal); and 2) Supplemental Two-Day Diurnal plus Hot Soak (2-day diurnal). The following is a summary of staff's proposed amendments, all of which are consistent with the recent federal amendments:

- *Optional waiver of the 2-day diurnal test for certification*

The primary purpose of the 2-day diurnal test is to ensure that a vehicle's carbon canister adequately purges



during short trips. The 2-day diurnal test is considered redundant for certification purposes because adequate purge is assured if a vehicle demonstrates compliance with both the 3-day diurnal and the onboard refueling vapor recovery test standards. The proposed amendments would provide manufacturers the option to not perform the 2-day diurnal test for certification purposes. Manufacturers would still be subject to applicable 2-day diurnal certification standards, and ARB could still perform 2-day diurnal tests for in-use compliance or require manufacturers to perform confirmatory 2-day diurnal tests for certification. Furthermore, a 2-day diurnal test would still be required under the In-Use Verification Program (IUV).

- *Clarify the provisions for an alternative running loss test method*

The current running loss test procedures allow manufacturers to use an alternative test procedure as long as the alternative is demonstrated to be equivalent or more stringent than the specified procedure. The proposed amendments would align the provisions for alternative procedures for certification confirmatory and in-use compliance tests with the recent federal amendments. The intent of both the federal and proposed California amendments is to encourage manufacturers to develop alternative methods that resolve technical complexities in the current procedures.

- *Modify canister preconditioning procedures*

The proposed amendments would allow manufacturers to use alternative canister preconditioning procedures. The current preconditioning procedure does not provide sufficient flexibility to address complications arising from the inaccessibility of present-day canisters. The proposed changes would provide manufacturers an option to use alternative preconditioning methods that allow evaporative canisters to remain installed in the vehicle throughout the preconditioning procedure.

- *Clarify In-Use Verification Program evaporative test requirements*

The proposed amendments would clarify the IUV requirements regarding the certified fuel types of in-use vehicles. Specifically, gasoline- and ethanol-fueled in-use vehicles would be required to perform 2-day diurnal tests. Liquefied petroleum gas- and non-dedicated compressed natural gas-fueled IUV vehicles would be required to perform 3-day diurnal tests.

- *Clarify onboard refueling vapor recovery test procedures*

The proposed amendments would provide manufacturers the option to leave canister vent lines connected to the canister under certain situations during the onboard refueling vapor recovery tests. Such situations

can occur, for example, when the vent lines are relatively inaccessible.

- *Four-wheel drive dynamometer provisions*

The number of full-time four-wheel and all-wheel drive vehicles in the statewide fleet has dramatically increased since exhaust emission standards were first adopted. Ideally, these vehicles should be emission tested on four-wheel drive dynamometers. However, the current test procedures only contain provisions for two-wheel drive dynamometers. The proposed amendments would add provisions specifying that full time four-wheel and all-wheel drive vehicles may be tested on four-wheel drive dynamometers. Other amendments would clarify aspects related to in-use compliance tests and certification confirmatory tests with respect to four-wheel drive vehicles.

- *Vehicle labeling*

Some of the current vehicle label content specifications are outdated. The proposed amendments would eliminate the need to include outdated engine information on the labels, such as a vacuum hose routing diagram, engine tune-up adjustment specifications, and the vehicle emission control bar code. This revision allows more design flexibility, and further aligns the California label regulations with federal label provisions.

## COMPARABLE FEDERAL REGULATIONS

Under Title II of the federal Clean Air Act (CAA), U.S. EPA has adopted comprehensive regulations to regulate emissions from new motor vehicles and motor vehicle engines (see 40 CFR Part 86). However, both state law and CAA section 209(b), allow California to establish its own emission standards that are more stringent than comparable federal standards. California's evaporative emission standards are significantly more stringent than the federal standards. The more stringent California standards are necessary to attain the national and state ambient ozone standards, and to fulfill the requirements of state and federal law.

As previously noted, the proposed amendments would align California's exhaust and evaporative emission test procedures with the recently amended federal procedures (70 FR 72917, December 8, 2005). The proposed amendments would not affect any of California's existing exhaust or evaporative emission standards.

## AVAILABILITY OF DOCUMENTS AND AGENCY CONTACT PERSONS

The Board staff has prepared a Staff Report: Initial Statement of Reasons (ISOR) for the proposed regulatory action, which includes a summary of the economic and environmental impacts of the proposal. The report

is entitled: "Proposed Technical Amendments to the Motor Vehicle Evaporative and Exhaust Emissions Test Procedures."

Copies of the ISOR and the full text of the proposed regulatory language, in underline and strikeout format to allow for comparison with the existing regulations, may be accessed on the ARB's web site listed below, or may be obtained from the Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, 1<sup>st</sup> Floor, Sacramento, CA 95814, (916) 322-2990 at least 45 days prior to the scheduled hearing on May 25, 2006.

Upon its completion, the Final Statement of Reasons (FSOR) will be available and copies may be requested from the agency contact persons in this notice, or may be accessed on the ARB's web site listed below.

Inquiries concerning the substance of the proposed regulatory action may be directed to Ronald Haste, Air Resources Engineer, by e-mail to [rhaste@arb.ca.gov](mailto:rhaste@arb.ca.gov) or by phone at (626) 450-6145, or to Sharon Lemieux, Manager, by e-mail to [slemieu@arb.ca.gov](mailto:slemieu@arb.ca.gov) or by phone at (626) 575-7067.

Further, the agency representative and designated back-up contact persons to whom non-substantive inquiries concerning the proposed administrative action may be directed are Artavia Edwards, Manager, Board Administration & Regulatory Coordination Unit, (916) 322-6070, or Alexa Malik, Regulations Coordinator, (916) 322-4011. The Board has compiled a record for this rulemaking action, which includes all the information upon which the proposal is based. This material is available for inspection upon request to the contact persons.

This notice, the ISOR and all subsequent regulatory documents, including the FSOR, when completed, are available on the ARB Internet site for this rulemaking at [www.arb.ca.gov/regact/evap2006/evap2006.htm](http://www.arb.ca.gov/regact/evap2006/evap2006.htm)

#### COSTS TO PUBLIC AGENCIES AND TO BUSINESSES AND PERSONS AFFECTED

The determinations of the Board's Executive Officer concerning the costs or savings necessarily incurred by public agencies and private persons and businesses in reasonable compliance with the proposed regulations are presented below.

The Executive Officer has determined that the proposed regulatory action will not create costs or savings, as defined in Government Code sections 11346.5(a)(5) and 11346.5(a)(6), to any state agency or in federal funding to the state, costs or mandate to any local agency or school district whether or not reimbursable by the state pursuant to part 7 (commencing with section 17500), division 4, title 2 of the Government Code,

or other nondiscretionary cost or savings to state or local agencies.

The affected businesses that would be required to comply with the proposed amendments are manufacturers that certify new California motor vehicles. In developing this regulatory proposal, ARB staff evaluated the potential economic impacts on representative private persons or businesses. The ARB is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. The proposed amendments are not expected to increase costs, but may result in cost savings because the amended test procedures will streamline and harmonize California's test procedures with existing federal procedures, thereby allowing manufacturers to reduce the number of emission tests for vehicle certification and the IUVP.

The Executive Officer has made an initial determination that the proposed regulatory action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states, or on representative private persons.

In accordance with Government Code section 11346.3, the Executive Officer has determined that the proposed regulatory action will not affect the creation or elimination of jobs within the State of California, the creation of new businesses or elimination of existing businesses within the State of California, or the expansion of businesses currently doing business within the State of California. An assessment of the economic impacts of the proposed regulatory action can be found in the Staff Report.

The Executive Officer has also determined, pursuant to title 1, CCR, section 4, that the proposed regulatory action will not affect small businesses because the proposed amendments allow for reducing the number of emission tests required for vehicle certification and the IUVP, and these tests are conducted by vehicle manufacturers, none of which are small businesses.

Before taking final action on the proposed regulatory action, the Executive Officer must reasonably determine that no alternative considered by the Executive Officer would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

#### SUBMITTAL OF COMMENTS

The public may present comments relating to this matter orally or in writing at the hearing, and in writing or by e-mail before the hearing. To be considered by the Board, written submissions not physically submitted at

the hearing must be received **no later than 12:00 noon, May 24, 2006**, and addressed to the following:

Postal mail is to be sent to:

Clerk of the Board  
Air Resources Board  
1001 I Street, 23<sup>rd</sup> Floor  
Sacramento, CA 95814

Electronic submittal: <http://www.arb.ca.gov/lispub/comm/bclist.php> **no later than 12:00 noon, May 24, 2006**.

Facsimile transmissions are to be transmitted to the Clerk of the Board at (916) 322-3928 and received at the ARB **no later than 12:00 noon May 24, 2006**.

The Board requests but does not require that 30 copies of any written statement be submitted and that all written statements be filed at least 10 days prior to the hearing so that ARB staff and Board Members have time to fully consider each comment. The board encourages members of the public to bring to the attention of staff in advance of the hearing any suggestions for modification of the proposed regulatory action.

#### STATUTORY AUTHORITY AND REFERENCES

This regulatory action is proposed under that authority granted in Health and Safety Code, sections 39500, 39600, 39601, 39667, 43013, 43018, 43101, 43104, 43105, and 43107 of the Health and Safety Code. This action is proposed to implement, interpret and make specific sections 39002, 39003, 39500, 39667, 43000, 43009.5, 43013, 43018, 43100, 43101, 43101.5, 43102, 43104, 43105, 43106, 43107, 43204, and 43205 of the Health and Safety Code.

#### HEARING PROCEDURES

The public hearing will be conducted in accordance with the California Administrative Procedure Act, title 2, division 3, part 1, chapter 3.5 (commencing with section 11340) of the Government Code.

Following the public hearing, the Board may adopt the regulatory language as originally proposed, or with non substantial or grammatical modifications. The Board may also adopt the proposed regulatory language with other modifications if the text as modified is sufficiently related to the originally proposed text that the public was adequately placed on notice that the regulatory language as modified could result from the proposed regulatory action; in such event the full regulatory text, with the modifications clearly indicated, will be made available to the public, for written comment, at least 15 days before it is adopted.

The public may request a copy of the modified regulatory text from the ARB's Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, 1<sup>st</sup> Floor, Sacramento, CA 95814, (916) 322-2990.

## TITLE 14. DEPARTMENT OF PARKS AND RECREATION

### NOTICE OF PROPOSED RULEMAKING

**NOTICE IS HEREBY GIVEN** that the Department of Parks and Recreation proposes to repeal the regulations described below and to adopt new regulations after considering all comments, objections and recommendations regarding the proposed action.

### PROPOSED REGULATORY ACTION

The Department proposes to repeal the regulations contained in the California Code of Regulations (CCR), Title 14, Division 3, Chapter 15, Articles 1 through 8, Sections 4970.00 through 4970.32 pertaining to the Off-Highway Motor Vehicle Recreation (OHMVR) Grants and Cooperative Agreements Program and to adopt new permanent regulations, CCR Title 14, Division 3, Chapter 15.5, Articles 1 through 5, Sections 4970.49 through 4970.72, that will further clarify the provisions of Public Resources Code (PRC) § 5090.01 et seq.

### PUBLIC HEARINGS

The Department will hold two public hearings on the proposed rulemaking. The hearings will be held:

Date: Wednesday, May 31, 2006

Time: 4 pm – 9 pm

Location: Hilton Garden Inn  
2540 Venture Oaks Drive,  
Sacramento, CA  
(916) 568-5400

— and —

Date: Friday, June 2, 2006

Time: 3 pm – 8 pm

Location: Ontario Hilton  
700 North Haven Avenue  
Ontario, CA  
(909) 980-0400

At the hearings, any interested person, or his or her authorized representative, may present oral or written statements, arguments, or contentions relevant to the proposed action described in the Informative Digest. The Department may impose reasonable limits on oral

presentations. The Department requests, but does not require, that persons who make oral comments at the hearing also submit a written copy of their testimony at the conclusion of their remarks. Additionally, pursuant to Government Code section 11125.1, any information presented to the Department during the open hearings in connection with the matter subject to discussion or consideration becomes part of the public record. Such information shall be retained by the Department and shall be made available upon request.

Written comments other than those presented at the public hearings may be submitted to the Department as described below.

### WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relative to the proposed rulemaking to the Department. The written comment period ends at 5:00 p.m., on May 22, 2006. The Department will consider only written comments received at the Department's office by that time (in addition to those comments received at the public hearing). All written comments shall be submitted to the following address:

Department of Parks and Recreation  
Off-Highway Motor Vehicle Recreation Division  
Attn: Janelle Miller, Manager  
Grants and Winter Recreation  
P.O. Box 942896  
Sacramento, California 94296-0001

Written comments can also be hand delivered to the contact person listed above at the following address:

Department of Parks and Recreation  
Off-Highway Motor Vehicle Recreation Division  
1725 23<sup>rd</sup> Street, Suite 200  
Sacramento, California 95816

Written comments that are not more than 10 pages will be accepted by the Department via facsimile at (916) 324-1610. A fax transmission must be completed by the deadline given above.

Written comments may also be delivered electronically to Janelle Miller at [jrmiller@parks.ca.gov](mailto:jrmiller@parks.ca.gov) by the deadline given above.

The back-up contact person regarding the proposed action/text is:

John Pelonio, Supervising Ranger, phone number (916) 324-5734 or e-mail address: [jpelonio@parks.ca.gov](mailto:jpelonio@parks.ca.gov).

### AUTHORITY AND REFERENCE

*Authority Citation:* The proposed regulations are authorized by Public Resources Code (PRC) § 5001.5 and 5003.

*Reference Citation:* The particular code sections implemented, interpreted, or made specific by these proposed new regulations are Public Resources Code (PRC) § 5090.24, 5090.32, 5090.35, 5090.50, 5090.51, 5090.53, 5090.61 and 5090.64.

### INFORMATIVE DIGEST

#### *Background and History*

Amendments to PRC § 5090.01 et seq, which became effective in 2003 (AB 2274) and again in 2005 (AB 2666), prescribed changes to and clarified many provisions of the statute affecting both off-highway vehicle (OHV) recreation and the OHMVR Grants and Cooperative Agreements Program application, monitoring, and funding processes.

The OHMVR Grants and Cooperative Agreements Program Regulations, CCR, Title 14, Division 3, Chapter 15, Articles 1 through 8, § 4970.00 through 4970.32, which were permanently adopted in December 2003, provided revisions to the prior regulations to comply with some of the amendments to the statute which became effective in 2003 (AB 2274). Under the 2003 regulations, grants for cities, counties, appropriate districts, nonprofit organizations, educational institutions and cooperative agreements for federal agencies and Native American tribes were awarded during the 2004/2005 grant cycle for acquisition, development, law enforcement, operations and maintenance, resource management, safety and education, and equipment projects. However, the instructions on how to apply for grants or cooperative agreements (OHV Grant Application Guide, June 2000), which were incorporated by reference into the 2003 permanent regulations, were not revised to be consistent with the current statute and regulations. Therefore, the Department determined that the 2003 regulations are internally inconsistent and cannot be administered in a lawful manner.

In addition, the 2003 regulations language did not provide the specificity necessary to clarify to potential applicants and the public (1) all the requirements within the application process, and (2) the evaluation criteria to be utilized in the competitive awarding of grants and cooperative agreements.

In order to implement the legislative mandates for the 2005/2006 grant and cooperative agreement application cycle and to avoid the delay which would result from the regular rulemaking process, the Department submitted revised regulations to the Office of Administrative Law (OAL) in April 2005 under emergency reg-



ulations procedures. The emergency regulations were approved by OAL and were to remain in effect until August 10, 2005.

The OHMVR Division from June 2005 through September 2005 was in the process of reviewing grant and cooperative agreement applications for the 2005/2006 funding cycle. The process continued through the actual allocation of funds by the OHMVR Commission in February 2006. At the end of July 2005, in order to ensure the integrity of the competitive grants and cooperative agreements process, the Department requested and received OAL approval for the readoption of the emergency regulations, which were to remain in effect until December 6, 2005. Because the Commission had not completed its funding determinations by this date, the Department requested and received OAL approval for the second readoption of the emergency regulations, which remained in effect until April 5, 2006. This second readoption allowed the Division time to review and identify elements of the entire application and funding process, including the Commission's funding allocations, which might need improvement/revision in adopting permanent regulations.

With the implementation of the 2005 emergency regulations in the 2005/2006 funding cycle, the Department has learned about aspects of the OHMVR Grants and Cooperative Agreements Program, including the text of the emergency regulations, the application instructions, the application evaluation system, and administrative procedures which will need further attention in the process of permanently adopting the regulations. Although the 2005 emergency regulations significantly revised the 2003 OHMVR Grants and Cooperative Agreements Program Regulations, the Department is proposing to make additional revisions to the regulations, including the documents incorporated by reference, in the permanent adoption process to provide the clarity that is necessary to ensure that the program is administered in an efficient and effective manner and is consistent with the statute.

### *Effect of Proposed Rulemaking*

The Department has determined that the 2003 permanent regulations in CCR, Title 14, Division 3, Chapter 15, Articles 1 through 8, § 4970.00 through 4970.32 are cumbersome and do not fully reflect the 2003 (AB 2274) and 2005 (AB 2666) amendments to the statute. The Department is proposing to repeal the existing permanent regulations for the following reasons:

- The definitions in Article 1 do not provide the specificity and the clarity that is necessary to ensure that potential applicants and the public understand the requirements of the regulations;

- The language in Articles 2 and 3 is not written and displayed in a manner that can be easily understood by potential applicants and the public;
- The OHV Grant Application Guide, June 2000, which is incorporated by reference in Article 7, was not revised to be consistent with the amendments to the statute;
- The language in Articles 4 and 5 is procedural in nature and is being included in the new OHMVR Division Manual, which is incorporated by reference in the proposed regulations; and
- The language in Articles 6 and 8 require significant revision to clarify and be consistent with the statute.

The Department is proposing to adopt the 2006 OHMVR Grants and Cooperative Agreements Program Regulations, CCR Title 14, Division 3, Chapter 15.5, Articles 1 through 5, § 4970.49 – 4970.72 to provide the necessary clarity, guidelines, and standards for the OHMVR Program as follows:

CCR § 4970.49 provides the application of Chapter 15.5.

CCR § 4970.50 provides definitions that clarify terms in the statute and/or the proposed regulations.

CCR § 4970.51 sets forth the reason for the OHMVR Grants and Cooperative Agreements Program. It identifies what is to be accomplished with funds received from the program. It further clarifies the legislative intent and purpose of the OHMVR Program as provided in the statute.

CCR § 4970.52 identifies the role and responsibilities of the OHMVR Commission at the beginning of the application cycle.

CCR § 4970.53 identifies the general application requirements that apply to all grant and cooperative agreement applications. The Off-Highway Motor Vehicle Recreation Division Manual for Grants and Cooperative Agreements (March 2006), which includes the application instructions, the application evaluation system, and the administrative procedures, is incorporated by reference. It also provides the OHMVR Division's responsibilities in the application submission process.

CCR § 4970.54 identifies (1) the purpose of acquisition projects, (2) the agencies and organizations that are eligible to apply for acquisition projects, (3) specific examples of and eligible costs associated with acquisition projects, and (4) the specific application and content requirements for acquisition projects.

CCR § 4970.55 identifies (1) the purpose of conservation projects, (2) the agencies and organizations that are eligible to apply for conservation projects, (3) specific examples of and eligible costs associated with

conservation projects, and (4) the specific application and content requirements for conservations projects.

CCR § 4970.56 identifies (1) the purpose of development projects, (2) the agencies and organizations that are eligible to apply for development projects, (3) specific examples of and eligible costs associated with development projects, and (4) the specific application and content requirements for development projects.

CCR § 4970.57 identifies (1) the purpose of equipment projects, (2) the agencies and organizations that are eligible to apply for equipment projects, (3) specific examples of and eligible costs associated with equipment purchases and repairs, (4) the specific application and content requirements for equipment projects, and (5) the required use, identification, registration, maintenance, and disposal of equipment purchased, leased, or rented with OHV Trust funds.

CCR § 4970.58 identifies (1) the purpose of facilities operation and maintenance projects, (2) the agencies and organizations that are eligible to apply for facilities operation and maintenance projects, (3) specific examples of and eligible costs associated with facilities operation and maintenance projects, and (4) the specific application and content requirements for facilities operation and maintenance projects.

CCR § 4970.59 identifies (1) the purpose of law enforcement projects, (2) the agencies and organizations that are eligible to apply for law enforcement projects, (3) specific examples of and eligible costs associated with law enforcement projects, and (4) the specific application and content requirements for law enforcement projects.

CCR § 4970.60 identifies (1) the purpose of off-highway vehicle (OHV) safety and/or education program projects, (2) the agencies and organizations that are eligible to apply for OHV safety and/or education program projects, (3) specific examples of and eligible costs associated with OHV safety and/or education program projects, and (4) the specific application and content requirements for OHV safety and/or education program projects.

CCR § 4970.61 identifies (1) the purpose of planning projects, (2) the agencies and organizations that are eligible to apply for planning projects, (3) specific examples of and eligible costs associated with planning projects, and (4) the specific application and content requirements for planning projects.

CCR § 4970.62 identifies (1) the purpose of restoration projects, (2) the agencies and organizations that are eligible to apply for restoration projects, (3) specific examples of and eligible costs associated with restoration projects, and (4) the specific application and content requirements for restoration projects.

CCR § 4970.63 identifies (1) the purpose of scientific research projects, (2) the agencies and organizations

that are eligible to apply for scientific research projects, (3) specific examples of and eligible costs associated with scientific research projects, and (4) the specific application and content requirements for scientific research projects.

CCR § 4970.64 identifies (1) the purpose of trail maintenance projects, (2) the agencies and organizations that are eligible to apply for trail maintenance projects, (3) specific examples of and eligible costs associated with trail maintenance projects, and (4) the specific application and content requirements for trail maintenance projects.

CCR § 4970.65 identifies the specific environmental documentation that is required in all grant and cooperative agreement applications for projects that require CEQA compliance and it identifies the OHMVR Division's responsibilities in the review of the required environmental documentation.

CCR § 4970.66 identifies (1) the purpose of a Wildlife Habitat Protection Program (WHPP)/Habitat Management Program (HMP), (2) the projects that require a WHPP/HMP in grant and cooperative agreement applications, (3) the components to be included in a WHPP/HMP, and (4) the OHMVR Division's responsibilities in reviewing each WHPP/HMP.

CCR § 4970.67 identifies the projects that require evidence that a soil conservation program has been met in grant and cooperative agreement applications and provides that the soil conservation program shall comply with the statute, the Soil Conservation Guidelines/Standards for Off-Highway Vehicle Recreation Management (11/14/91) and the OHMVR Division Manual.

CCR § 4970.68 identifies which types of projects in which types of facilities require that a funding match shall be provided by city, county, appropriate district, educational institution, and nonprofit organization applicants; and also provides that federal agencies and federally recognized Native American tribes are exempt from the funding match requirement.

CCR § 4970.69 provides that grants and cooperative agreements shall be awarded on a competitive basis and identifies the application evaluation system to be used by the OHMVR Division.

CCR § 4970.70 identifies (1) the OHMVR Division's responsibilities in forwarding evaluated applications to the Commission for funding consideration, (2) the Commission's responsibilities to review the applications forwarded by the OHMVR Division and to award funding allocations after hearing public and agency testimony, and (3) the OHMVR Division's responsibilities once the allocated applications are returned from the Commission.

CCR § 4970.71 identifies (1) the record keeping responsibilities of all grantees, (2) the Department of Parks and Recreation's responsibility to conduct audits

and provide final audit reports to grantees, and (3) the grantees' responsibility to refund any overpayments to the State that have been identified in the audit.

CCR § 4970.72 identifies (1) the OHMVR Division's responsibility to conduct performance reviews, which include desk reviews and site visits, (2) to develop reports regarding site visits, which contain comments and recommendations designed to improve grantees' programs, and (3) the grantees' responsibility to address the comments and recommendations.

### POLICY STATEMENT OVERVIEW

The objective of the proposed regulations is to ensure that the OHMVR Grants and Cooperative Agreements Program is administered in an effective and efficient manner and is consistent with the statute by providing the following:

- Specific regulation language to provide more clarity to potential applicants and the public — the scope of definitions has been broadened and also clarified;
- Incorporation by reference of a comprehensive manual that will include clear and concise application instructions, an application evaluation system, and administrative procedures that will provide the clarity necessary to ensure a smoother application process;
- Clarification of documentation requirements including required environmental documentation to provide more clarity to future applicants; and
- Evaluation criteria that will ensure defensible standards and competitive awarding of grants and cooperative agreements.

### COMPARABLE FEDERAL REGULATION OR STATUTE

The proposed action does not differ substantially from an existing comparable federal regulation or statute. The proposed regulations do not duplicate or conflict with federal statutes and federal regulations.

### LOCAL MANDATE DETERMINATION

The Department has determined that these proposed regulations do not impose a mandate on local agencies or school districts. Participation in the OHMVR Grants and Cooperative Agreements Program is voluntary.

### DISCLOSURES/ESTIMATE OF ECONOMIC AND FISCAL IMPACT

*Fiscal Impact on Local Agencies or School Districts:* These regulations do not impose any cost on a local

agency or school district that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4, nor do they impose any nondiscretionary cost or saving on local agencies.

*Fiscal Impact on State Government:* These regulations do not impose any cost or savings to the State or any cost or savings in federal funding to the State.

*Economic Impact on Business:* The Department has made an initial determination that these regulations do not have a significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states. The OHV funds are used only on land managed by local and federal agencies and federally recognized Native American tribes.

*Cost Impacts on Representative Private Persons or Businesses:* The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

*Assessment of Effect on Jobs and Businesses:* Adoption of these regulations will not: (1) create or eliminate jobs within California, (2) create new businesses or eliminate existing businesses within California; or (3) affect the expansion of businesses currently doing business within California.

*Impact on Housing:* These regulations would not have a significant effect on housing costs.

*Determination Regarding Effect on Small Businesses:* The Department has determined that there are no cost impacts on small businesses because this is a grant program for federal agencies, federally recognized Native American tribes, cities, counties, appropriate districts, non-profit organizations, and educational institutions.

### CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5(a)(13), the Department must determine that no reasonable alternative that it considered or that has otherwise been identified and brought to the attention of the Department, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

### AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Department has prepared an Initial Statement of Reasons for the proposed action, has available all the information upon which its proposal is based, and has available the expressed terms of the proposed action. Copies may be obtained by contacting Janelle Miller at



the e-mail address or phone number listed above. The rulemaking file, which contains all information on which the proposal is based, is located at the Off-Highway Motor Vehicle Recreation Division, 1725 23<sup>rd</sup> Street, Suite 200, Sacramento, California, 94296-0001, and may be obtained upon request. Additionally, the Initial Statement of Reasons and the text of the proposed regulations may be obtained from the Department's website located at [www.ohv.parks.ca.gov](http://www.ohv.parks.ca.gov) at the Grants and Regulations link.

#### AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding the public hearings and considering all timely and relevant comments received, the Department may adopt the proposed regulations substantially as described in this notice. If the Department makes substantive modifications, which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Department adopts the regulations as revised.

#### AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, a Final Statement of Reasons may be obtained by contacting Janelle Miller at the aforementioned address and will be made available through the Division website at [www.ohv.parks.ca.gov](http://www.ohv.parks.ca.gov), at the Grants and Regulations link.

### **TITLE 14. RESOURCES AGENCY**

#### NOTICE OF PROPOSED RULEMAKING AMENDING REGULATIONS IMPLEMENTING THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

NOTICE IS HEREBY GIVEN that the Resources Agency proposes to adopt and amend regulations implementing Division 13 of the Public Resources Code, the California Environmental Quality Act (CEQA), as described below.

#### STATUTORY AUTHORITY

Public Resources Code section 21083 mandated adoption of regulations (CEQA Guidelines) implementing CEQA. The CEQA Guidelines are codified in California Code of Regulations (CCR), Title 14, sections 15000-15387.

Pursuant to section 21080.5 of the Public Resources Code, the Secretary for Resources ("Secretary") may certify regulatory programs of state agencies as meeting standards that are equivalent to the environmental review process required by the California Environmental Quality Act ("CEQA"), Public Resources Code, section 21000, *et seq.* Regulatory programs that have been certified by the Secretary are exempt from procedural requirements in Chapter 3 of CEQA, as well as certain other provisions in CEQA. Section 21080.5, subdivision (e) of the Public Resources Code, provides that the Secretary must withdraw certification if the Secretary determines that the regulatory program no longer meets the criteria for certification. Certification and withdrawal of certification must comply with Chapter 3.5 of the Government Code.

Pursuant to section 21080.5, the Secretary has certified sixteen programs listed at section 15251 of Title 14 of the California Code of Regulations, Guidelines implementing the California Environmental Quality Act ("CEQA Guidelines").

#### PROPOSED REGULATORY ACTION

The proposed action is intended to amend subdivision (j) and subdivision (h) of section 15251 of Title 14 of the California Code of Regulations.

#### PUBLIC HEARING

A public hearing is not scheduled. Any interested person or his or her duly authorized representative may request, in writing, no later than 15 days prior to the close of the written comment period, a public hearing.

#### WRITTEN COMMENT PERIOD

Any interested person may submit written comments relevant to the proposed revisions to the Resources Agency. Written comments must be received by the Resources Agency not later than 5:00 p.m. on **May 22, 2006** in order to be considered by the Agency. Written comments may be delivered, mailed, or transmitted by facsimile or electronic mail. Written comments should be addressed as follows:

Sandra Ikuta,  
Deputy Secretary and General Counsel  
The Resources Agency  
1416 Ninth Street, Suite 1311  
Sacramento, CA 95814

#### INQUIRIES AND ADDITIONAL INFORMATION

Inquiries relating to the proposed administrative action may be directed to Mary Akens, Assistant General Counsel, at (916) 653-5656.



The Agency has prepared an Initial Statement of Reasons for the proposed action that provides an explanation of the purpose and justification for the proposed rulemaking. Anyone may view and print a copy of the statement or the text of the proposed revisions by accessing the following page on the Agency's Internet website: [www.ceres.ca.gov/ceqa/index.html](http://www.ceres.ca.gov/ceqa/index.html). Copies of the initial statement and text of the regulations are also available upon request from Mary Akens, Assistant General Counsel, at (916) 653-5656. The entire rulemaking file is available for public inspection at 1416 Ninth Street, Suite 1311, Sacramento, California 95814.

The Agency will post the Final Statement of Reasons and any future notices related to the proposed action on the Agency's Internet website. Anyone wishing to receive future notices related to the proposed action and/or receive a copy of the Final Statement of Reasons once it has been prepared should submit a written request containing his or her postal mailing address to Mary Akens, Assistant General Counsel, Resources Agency, State of California, 1416 Ninth Street, Suite 1311, Sacramento, California 95814. These requests can also be submitted by fax at (916) 653-8123.

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

CEQA (Pub. Resources Code, § 21000, *et seq.*) requires public agencies to identify potential environmental effects of activities that they propose to carry out, fund, or approve, and to consider feasible alternatives and mitigation measures that would substantially reduce significant adverse environmental effects. CEQA compliance usually involves preparation by a public agency of either a negative declaration, mitigated negative declaration, or an environmental impact report. CEQA requires the Secretary for Resources, in consultation with the Governor's Office of Planning and Research (OPR), to periodically adopt, amend, and repeal the CEQA Guidelines. Section 21080.5 of the California Public Resources Code provides that when a regulatory program of a state agency requires the agency to submit a plan or other written document in support of specified activities, and such regulatory program is certified by the Secretary for Resources ("Secretary") pursuant to Section 21080.5, the regulatory program is exempt from specified sections of CEQA, Public Resources Code, section 21000, *et seq.* Section 21080.5, subdivision (e) of the Public Resources Code, provides that the Secretary must withdraw certification if the Secretary determines that the regulatory program no longer meets the criteria for certification. Certification and withdrawal of certification must comply with Chapter 3.5 of the Government Code.

Section 15251 is the section identified for amendment during this rulemaking. It is the intent of the Secretary for Resources that the proposed revisions will amend subdivision (h) and repeal subdivision (j) of section 15251 of the Guidelines. The remaining subdivisions within section 15251 will be updated to reflect correct numbering due to the repeal of subdivision (j) of section 15251 of the Guidelines.

It is the intent of the Secretary for Resources that the proposed revisions shall clarify the Guidelines and, where appropriate, update the Guidelines consistent with statutory revisions.

The following summaries describe existing laws and regulations related to the proposed action and explain the effect of the proposed revisions. Also included, where appropriate, are the specific objectives of the revisions.

#### **15251. List of Certified Programs.**

Section 15251 of the California Code of Regulations provides a list of programs that have been certified by the Secretary for Resources as meeting the requirements of Section 21080.5 of the Public Resources Code.

#### **a. Section 15251, subd. (h).**

Subdivision (h) of section 15251 lists the permit and planning program of the San Francisco Bay Conservation and Development Commission (BCDC) under the McAteer-Petris Act, Title 7.2 (commencing with Section 66600) of the Government Code and the Suisun Marsh Preservation Act, Division 19 (commencing with Section 29000) of the Public Resources Code.

The authorities for the proposed amendments are Public Resources Code, sections 21080.5 and 21083. This amendment will update and clarify the section by withdrawing certification of the permit program of the San Francisco Bay Conservation and Development Commission under the Suisun Marsh Preservation Act, Division 19 (commencing with Section 29000) of the Public Resources Code. In order to enhance the transparency of its compliance with CEQA, BCDC has decided that in the future it will implement the general CEQA requirements set forth in the Public Resources Code (commencing with Section 21000) and BCDC's regulatory provisions (commencing with 14 CCR Section 10110), and no longer intends to rely on its certified regulatory program for the permit program under the Suisun Marsh Preservation Act. For this reason, BCDC has requested the Secretary of the Resources Agency withdraw certification of this component of its certified regulatory program.

The remainder of section 15251(h) of the CEQA Guidelines dealing with planning under the Suisun Marsh Preservation Act and the permit and planning programs of the San Francisco Bay Conservation and

Development Commission under the McAteer–Petris Act, Title 7.2 (commencing with section 66600) of the Government Code are not affected by this proposed withdrawal of certification.

**b. Section 15251, subd. (j)**

Subdivision (j) of Section 15251 lists the certified program for the regulation of weather resources management projects through the issuance of operating permits by the State Department of Water Resources (DWR) pursuant to the California Weather Resources Management Act of 1978.

The authorities for the proposed amendments are Public Resources Code, sections 21080.5 and 21083. This amendment will update and clarify the section by withdrawing certification of the regulatory program governing the regulation of weather resources management projects through the issuance of operating permits (certified at Section 15251(j) of title 14 of the California Code of Regulations) because the program is defunct. In 1984 the Legislature eliminated the statutory licensing and permit requirements for the weather management project (sections 403–409 of the California Water Code), and DWR subsequently repealed its regulations implementing the program. Accordingly, the Secretary must withdraw certification upon determining that the regulatory program has been altered so that it no longer meets the specified qualifications. Because the statutory licensing and permit requirements for the weather management project have been repealed, and DWR subsequently repealed its regulations implementing the program, the Secretary must withdraw certification.

FEDERAL REGULATION AND STATUTE

CEQA is similar in some respects to the National Environmental Policy Act, 42 U.S.C. Section 4321, et seq. (NEPA), but NEPA requires environmental review of federal actions by federal agencies while CEQA requires environmental review of state and local projects by state and local agencies in California. The proposed Guideline amendments do not duplicate or conflict with any federal statutes or regulations.

DISCLOSURES REGARDING THE  
PROPOSED ACTION

The Agency has made the following determinations concerning the proposed changes to the Guidelines:

**Mandates on Local Agencies and School Districts**

The Agency has determined that the proposed revisions to the CEQA Guidelines will not impose a mandate on local agencies or school districts.

**Costs or Savings to Local Agencies and School Districts or Federal Funding to the State of California Resources Agency**

No costs or savings have been identified from the proposed action for any state agency, local agency, or school district. No reimbursable costs or savings under Part 7 (commencing with Section 17500) of Division 4 of the Government Code to local agencies or school districts, no nondiscriminatory costs or savings to local agencies or school districts, and no costs or savings in federal funding to the State will result from the proposed action.

**Significant Adverse Economic Impacts on Business**

The Agency has initially determined that the proposed action will not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The factual basis for this conclusion is that the revisions will update and clarify the two subdivisions within section 15251 of the CEQA Guidelines.

**Cost Impacts on a Representative Person or Business**

The Agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

**Effect on Housing Costs**

The Agency has made an initial determination that the proposed action will not have an adverse impact on housing costs.

**Assessment of Potential to Create or Eliminate Jobs or Businesses Within the State of California Resources Agency**

The Agency has assessed the potential for the proposed action to adversely affect California business enterprises and individuals, including whether it will affect the creation or elimination of jobs or the creation, elimination or expansion of businesses, as required by subdivision (b) of Government Code Section 11346.3. The proposed action is not expected to have a positive or adverse effect on the creation or elimination of jobs or businesses within California. The Agency has also concluded that the proposed amendments will not affect the expansion of businesses currently doing business within the state.

The Agency's complete Economic and Fiscal Impact Statement (Form Std 399) for the proposed action is part of the rulemaking file, and it is available from the Agency contact person named in this notice.

**Effect on Small Businesses**

The proposed actions will not affect small business because the revisions will update, clarify, and stream-

line the way that public agencies administer the CEQA process.

### CONSIDERATION OF ALTERNATIVES

The Secretary has considered the alternative of taking no action. With respect to DWR's request, the no-action alternative would be not to withdraw certification of DWR's regulatory program governing the regulation of weather resources management projects through the issuance of operating permits. The Secretary has rejected this alternative, because under section 21080.5(e) of the Public Resources Code, the Secretary must withdraw certification upon determining that the regulatory program has been altered so that it no longer meets the specified qualifications. Because the statutory licensing and permit requirements for the weather management project have been repealed, and DWR subsequently repealed its regulations implementing the program, the Secretary must withdraw certification.

With respect to BCDC's request, the alternative would be not to withdraw certification of BCDC's permit program under the Suisun Marsh Preservation Act. The Secretary has rejected this alternative because BCDC no longer intends to rely on its certified regulatory program in issuing permits under the Suisun Marsh Preservation Act. Instead, BCDC will comply with the applicable provisions of CEQA. BCDC has informed the Secretary that this decision is intended to enhance the transparency of BCDC's CEQA process. The failure to withdraw certification of BCDC's permit program under the Suisun Marsh Preservation Act, which BCDC will no longer use, would be confusing to the public and would interfere with BCDC's goal of enhancing the transparency of its process. Accordingly, Secretary has determined it is necessary to withdraw certification of this program.

### ALTERNATIVES TO REDUCE IMPACTS ON SMALL BUSINESSES

Reasonable alternatives to lessen adverse economic impacts on small businesses were not identified for the proposed action. The proposed action would not have an adverse economic impact on businesses.

### AVAILABILITY OF CHANGED OR MODIFIED TEXT

If the Agency makes changes in the text of any proposed regulation, the revised text will be available to the public at least fifteen (15) days prior to the date when the Agency considers the proposed regulations for adoption, amendment, or repeal, unless the change is nonsubstantial or solely grammatical in nature.

Changes must be sufficiently related to the original text that the public was adequately placed on notice that the change could result from the originally proposed action.

### PLAIN ENGLISH DETERMINATION AND AVAILABILITY OF TEXT

The proposed final regulations were prepared pursuant to the standard of clarity provided in Government Code section 11349 and the plain English requirements of Government Code sections 11342.580 and 11346.2(a)(1). The proposed regulations are considered non-technical and were written to be easily understood by the parties that will use them. The purpose of the proposed changes to the Guidelines is to interpret the requirements of CEQA and to provide a comprehensive point of reference for those who are affected by CEQA's mandates, both in government and the private sector. Specifically, the proposed changes will make it more clear what lead agencies and project applicants must do to comply with CEQA.

The text of the proposed changes to the Guidelines has been drafted, and is available in plain English. The text is available through the contact address and telephone number listed herein or on the CEQA website at [www.ceres.ca.gov/ceqa/index.html](http://www.ceres.ca.gov/ceqa/index.html).

## TITLE 14/27. CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD

### NOTICE OF PROPOSED RULEMAKING

<b>TITLE 27.</b>	<b>ENVIRONMENTAL PROTECTION</b>
<b>DIVISION 2.</b>	<b>SOLID WASTE</b>
<b>CHAPTER 4.</b>	<b>DOCUMENTATION AND REPORTING FOR REGULATORY TIERS, PERMITS, WDRS, AND PLANS</b>
<b>ARTICLES 1, 2, 3, and 3.1</b>	
<b>TITLE 14.</b>	<b>NATURAL RESOURCES</b>
<b>DIVISION 7.</b>	<b>CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD</b>
<b>CHAPTER 3.</b>	<b>MINIMUM STANDARDS FOR SOLID WASTE HANDLING AND DISPOSAL</b>



ARTICLES 5.9 and 5.95

PUBLIC HEARING

CHAPTER 5. ENFORCEMENT OF  
SOLID WASTE  
STANDARDS AND  
ADMINISTRATION OF  
SOLID WASTE FACILITY  
PERMITS; LOAN  
GUARANTEES

ARTICLES 2.1, 2.2, 3.0

PROPOSED REGULATORY ACTION

The California Integrated Waste Management Board (CIWMB) proposes to amend Title 27, Division 2, Chapter 4, Articles 1, 2, 3, and 3.1, and to add to Article 3, subsections 21660.1 through 21660.4; and to amend Title 14, Division 7, Chapter 3, Articles 5.9 and 5.95 and Chapter 5, Articles 2.1, 2.2, and 3.0. The proposed regulations are intended to comply with the requirements of Assembly Bill 1497 (Montanez, Statutes 2003, Chapter 823), which requires the CIWMB to define “significant change in the design or operation of the solid waste facility that is not authorized by the existing permit” and to establish public noticing and hearing requirements for permit revisions. The proposed regulations also apply the public noticing and hearing regulatory requirements for new construction, demolition and inert (CDI) permit applications to other solid waste facilities in order to provide consistent noticing and hearing requirements for different types of solid waste facilities. Further, the proposed regulations address various permitting-related issues and provide clarification and consistency to the existing regulations.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulations to the CIWMB. **The written comment period for this rulemaking ends at 5:00 p.m. on June 6, 2006.** The CIWMB will also accept oral and written comments during the public hearing described below. Please submit your written comments to:

Bobbie Garcia  
California Integrated Waste Management Board  
Permitting and Enforcement Division  
P.O. Box 4025 MS-16  
Sacramento, CA 95812-4025  
Phone: (916) 341-6291  
FAX: (916) 319-7535  
e-mail: [SWFacPermit@ciwmb.ca.gov](mailto:SWFacPermit@ciwmb.ca.gov)

A public hearing to receive comments on the proposed rulemaking is scheduled for June 5, 2006. The hearing will be held in the Coastal Hearing Room (Second Floor) at the Joe Serna, Jr. Cal/EPA Building, 1001 I Street, Sacramento, California. The hearing will begin at 1:30 p.m. The CIWMB requests that persons, who make oral comments at the hearing, submit written copy of their testimony at the hearing. The Coastal Hearing Room is wheelchair accessible. For directions to the Cal/EPA Building, please visit:

<http://www.calepa.ca.gov/EPAbldg/>.

INFORMATIVE DIGEST

The California Integrated Waste Management Act (Act), Public Resources Code (PRC) section 40000 et seq., provides for the protection of public health and safety and the environment through waste prevention, waste diversion, and safe waste processing and disposal. PRC section 40502 requires the CIWMB to adopt rules and regulations including minimum standards for solid waste handling and disposal which do not duplicate any requirements that are already under the authority of the State Air Resources Board or the State Water Resources Control Board (PRC Section 43020). PRC Section 43021 requires the regulations to include standards for the design, operation, maintenance, and ultimate reuse of solid waste facilities. PRC Section 44002 prohibits the operation of a solid waste facility by any person who has not been issued a solid waste facilities permit. PRC Section 44004(a) prohibits an operator of a solid waste facility from making a significant change in the design or operation of a solid waste facility that is not authorized by the existing permit, unless the change is approved by the EA, the change conforms with the Act and all regulations adopted pursuant to the Act, and the terms and conditions of the solid waste facilities permit are revised to reflect the change. The term “significant change in the design or operation of a solid waste facility that is not authorized by the existing permit” is not defined in statute or regulation.

AB 1497 amended PRC Section 44004 to require that the CIWMB (to the extent resources are available) adopt regulations that define the term “significant change in the design or operation of the solid waste facility that is not authorized by the existing permit.” AB 1497 also required the CIWMB to implement new public noticing and hearing requirements applicable to the EA when processing applications for permit revisions. Prior to AB 1497, there was no requirement that the EA notice and hold a public hearing when processing an application for a permit revision. The only other hearing requirements for permit actions taken by the EA are for



new CDI permit applications (Title 14 sections 17383.10 and 17388.6). The CIWMB directed staff at its January 2004 meeting to investigate the application of the CDI hearing requirements for new CDI permits to other solid waste facilities in order to provide consistent hearing and notice requirements for different types of solid waste facilities. The CIWMB further directed staff at its November 2004 meeting to implement the permit regulation development plan presented by staff, which includes the AB 1497 requirements, the application of the CDI hearing requirements for new permits to other solid waste facilities, and other permitting requirements to provide clarification and consistency to the existing regulations.

The proposed regulations:

- define the phrase “significant change in the design or operation of the solid waste facility that is not authorized by the existing permit”
- establish a methodology for EAs to follow when presented with a request by an operator to make changes to the solid waste facilities permit
- authorize a new method to change activities at a solid waste facility by means of a “modified permit” to allow modifications to a permit for changes that are less than significant
- implement additional noticing requirements for amendments to the report of facility information (RFI), modified permits, and new and revised permits and establish informational meeting (hearing) requirements for new and revised permits
- clarify the relationship between the solid waste facilities permit and local land use decisions and approvals
- clarify how and by whom community outreach efforts for new, modified, or revised permits should be monitored
- require the EA to notify all facility operators when they must apply for a five-year permit review of their permit, bringing consistency to the process
- require the EA to design its inspection program so that facility inspections are unannounced and random, insofar as possible.

#### POLICY STATEMENT OVERVIEW

The CIWMB has determined that regulatory changes are necessary to comply with the requirements of AB 1497, address various permit-related issues, and provide clarification and consistency to the existing regulations. Specifically, the CIWMB has determined that the definition of “significant change in the design or operation of the solid waste facility that is not authorized by the existing permit,” as set out in these proposed regula-

tions, provides EAs and operators with a consistent rational decision process for determining when a proposed change by the operator is significant, while giving the EAs the flexibility necessary to address site specific conditions. The additional public notice and hearing requirements will benefit the citizens of California by providing a more transparent and accessible permit process.

#### PLAIN ENGLISH REQUIREMENTS

CIWMB staff prepared the proposed regulations pursuant to the standard of clarity provided in Government Code Section 11349 and the plain English requirements of Government Code Section 11342.580 and 11346.2(a)(1). The proposed regulations are considered non-technical and are written to be easily understood by those parties that will use them.

#### AUTHORITY AND REFERENCES

PRC Sections 40502, 43020, 43021, 43200, 43214, and 44004 provide authority for these regulations. The purpose of the proposed regulations is to implement, interpret, and make specific PRC Sections 40053, 43020, 43021, and 43000–45042, and 48007.5.

#### FEDERAL LAW OR REGULATIONS MANDATE

Federal law or regulations do not contain comparable requirements and as an approved state under Subtitle D of the Resource Conservation and Recovery Act (42 U.S.C.A. sections 6901 et seq.), the State of California has the authority to promulgate such regulations.

#### MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS

CIWMB staff has made a determination that the proposed regulations impose a mandate on local agencies that serve as CIWMB certified local enforcement agencies. These agencies will incur minimal costs resulting from regulatory permitting requirements. The mandate does not require state reimbursement because these agencies are authorized by PRC Sections 43213 and 44006(c) to charge a fee to recover the costs of performing these services.

CIWMB staff has made a determination that the proposed regulations do not impose: 1) mandate on local school districts; 2) significant costs or savings to any state agency; 3) costs to any local agency or school district that must be reimbursed in accordance with Government Code section 17500 through 17630; 4) other non-discretionary costs or savings on local agencies; or 5) costs or savings in federal funding to the state.

### EFFECT ON HOUSING COSTS

CIWMB staff has made a determination that the proposed regulations will not have a significant effect on housing costs.

### EFFECT ON BUSINESSES

CIWMB staff has made an initial determination that the proposed regulations will not have a significant, statewide adverse economic impact directly affecting California businesses including the ability of California businesses to compete with businesses in other states.

### EFFECT ON SMALL BUSINESSES

CIWMB staff has made a determination that the regulations will not have any significant economic impact on small businesses. The regulations will apply to solid waste facilities where the operator is proposing to make a change in the design or operation of an existing facility, or is proposing to develop a new facility. Few small businesses establish and operate solid waste handling activities that require a permit, they operate under either regulatory exclusions or notifications, therefore they would not be subject to these regulations. For the few small businesses that do operate solid waste facilities, they will incur minimal costs resulting from regulatory permitting requirements. As such, these regulations will not significantly affect small businesses.

### IMPACTS ON JOBS/BUSINESSES

CIWMB staff has made a determination that the costs and/or savings associated with these regulations are not significant enough to result in the creation or elimination of jobs, occupations, or businesses or the expansion of existing California businesses.

### COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

CIWMB staff has analyzed the economic impact of the proposed action and made a determination that there are no cost impacts on representative private persons or businesses.

### CONSIDERATION OF ALTERNATIVES

The CIWMB must determine that no reasonable alternative considered by the CIWMB or that has otherwise been identified and brought to the attention of the CIWMB would be more effective in carrying out the purpose for which the action is proposed, or would be as

effective and less burdensome to affected private persons than the proposed action. The CIWMB invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period.

### CONTACT PERSONS

Inquiries concerning the proposed administrative action or the substance of the proposed regulations may be directed to:

Bobbie Garcia  
California Integrated Waste Management Board  
Permitting and Enforcement Division  
P.O. Box 4025 MS-16  
Sacramento, CA 95812-4025

Phone: (916) 341-6291  
FAX: (916) 319-7535  
e-mail: [bgarcia@ciwmb.ca.gov](mailto:bgarcia@ciwmb.ca.gov)

Or directed to:

Becky Williams  
California Integrated Waste Management Board  
Permitting and Enforcement Division  
P.O. Box 4025 MS-17  
Sacramento, CA 95812-4025

Phone: (916) 341-6710  
FAX: (916) 319-7417  
e-mail: [rwilliam@ciwmb.ca.gov](mailto:rwilliam@ciwmb.ca.gov)

### AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The CIWMB will have the entire rulemaking file, and all information upon which the proposed regulations are based, available for inspection and copying throughout the rulemaking process at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, the initial statement of reasons and the economic impact statement. Copies may be obtained by contacting Bobbie Garcia at the address, e-mail, or telephone number listed above. For more timely access to the proposed text of the regulations, and in the interest of waste prevention, interested parties are encouraged to access the CIWMB's website at <http://www.ciwmb.ca.gov/Rulemaking/PermitImple/>.

Additionally, the Final Statement of Reasons will be available when developed at the end of the rule making process at the above listed Internet address or you may call the contact persons named above.

## AVAILABILITY OF CHANGED OR MODIFIED TEXT

The CIWMB may adopt the proposed regulations substantially as described in this notice. If the CIWMB makes modifications which are sufficiently related to the proposed text, it will make the modified text — with changes clearly indicated — available to the public for at least 15 days before the CIWMB adopts the regulations as revised. Requests for the modified text should be made to the either contact person specified above. The CIWMB will provide any modified text to all persons who have provided contact information including persons who testify at a public hearing; all persons who submit written comments at a public hearing; all persons whose comments are received during the comment period; and all persons who request notification of the availability of such changes. The CIWMB will accept written comments on the modified regulations for 15 days after the date on which they are made available.

## TITLE 17. CALIFORNIA AIR RESOURCES BOARD

### NOTICE OF PUBLIC HEARING TO CONSIDER AMENDMENTS TO THE CONTROL MEASURE FOR PERCHLOROETHYLENE DRY CLEANING OPERATIONS

The Air Resources Board (ARB or Board) will conduct a public hearing at the time and place noted below to consider adopting amendments to the existing dry cleaning regulation to further reduce emissions of perchloroethylene (Perc) from dry cleaning operations.

DATE: May 25, 2006

TIME: 9:00 a.m.

PLACE: California Environmental Protection Agency  
Air Resources Board  
Byron Sher Auditorium, Second Floor  
1001 I Street  
Sacramento, California 95814

This item will be considered at a two-day meeting of the Board, which will commence at 9:00 a.m. on May 25, 2006, and may continue to 8:30 a.m., May 26, 2006. Please consult the agenda for the meeting, which will be available at least ten days before May 25, 2006, to determine the day on which this item will be considered.

For individuals with sensory disabilities, this document is available in Braille, large print, audiocassette, or computer disk. Please contact ARB's Disability Coordinator at (916) 323-4916 by voice or through the California Relay Services at 711, to place your request

for disability services. An interpreter will be available at the public hearing for those who wish to give testimony in Korean. For Korean translation please contact Ms. Linda Keifer at (916) 323-4327 or lkeifer@arb.ca.gov. If you are a person with limited English in a language other than Korean and would like to request interpreter services, please contact ARB's Bilingual Manager at (916) 323-7053.

## INFORMATIVE DIGEST OF PROPOSED ACTION AND POLICY STATEMENT OVERVIEW

**Sections Affected:** Proposed amendments to section 93109, title 17, California Code of Regulations (CCR).

**Background:** In 1991, ARB identified Perc as a toxic air contaminant (TAC). As required by State law, ARB then evaluated the need to reduce the emissions of Perc. In 1993, the Board found there was a need to reduce Perc emissions and approved a regulation to reduce emissions from Perc dry cleaning operations (title 17, California Code of Regulations, section 93109). In general, control measures are based on the best available control technology (BACT) or a more effective control method in consideration of cost and risk, among other factors. The regulation sets forth the requirements for Perc dry cleaning equipment, operations and maintenance, recordkeeping, and reporting.

As permitted under State law, in 2002, the South Coast Air Quality Management District (South Coast AQMD) amended its Rule 1421, Control of Perchloroethylene Emissions from Dry Cleaning Systems (Rule 1421). These amendments prohibit new or relocated Perc dry cleaning facilities and will phase out the use of Perc in existing dry cleaning operations by December 1, 2020 within the South Coast AQMD. Rule 1421 required converted machines to be phased out by July 1, 2004. In addition, all existing Perc dry cleaners in the South Coast AQMD are required to use secondary control and comply with Rule 1402, Control of Toxic Air Contaminants from Existing Sources, which limits the lifetime cancer risk from a facility to no more than 25 in a million, by November 1, 2007. Prior to December 1, 2020, if an existing facility chooses to replace its existing machine with a new Perc machine, the facility would need to purchase a secondary control machine and comply with Rule 1401, New Source Review of Toxic Air Contaminants. Rule 1401 limits the lifetime cancer risk from a facility to less than 10 in a million.

In 2003, ARB began a technical evaluation of ARB's existing regulation. As a result of the evaluation, ARB found that more can be done to reduce emissions of Perc from dry cleaning operations. The proposed amendments to the regulation would reduce emissions of Perc from dry cleaning operations by one ton per day throughout California through the use of currently available BACT. This would correspond to a reduction



in Perc emissions of approximately 40 percent and would result in a reduction of risk by up to 80 percent.

**Description of the Proposed Regulatory Action:**

The proposed amendments to the regulation are designed to use currently available emission reduction technologies to further reduce the public's exposure to Perc from dry cleaning operations. The amended regulation will impact the type of equipment being used in the Perc dry cleaning industry. The existing regulation prohibits the use of transfer, vented, and self-service machines. The proposed amended regulation will, over time, expand this prohibition to include 1) the use of primary control and converted dry cleaning machines; 2) secondary control dry cleaning machines that have not been certified by the ARB; 3) drying cabinets; and 4) dip tank operations in Perc dry cleaning facilities. Also, new co-residential Perc facilities will be prohibited. Existing co-residential facilities will be required to phase out their use of Perc dry cleaning machines.

Existing Perc facilities will be required to use BACT, which the proposal identifies as an integral secondary control Perc dry cleaning machine, or an alternative non-Perc cleaning system. New Perc facilities will be required to use integral secondary control dry cleaning machines and have a 300 feet buffer zone. Additionally, for dry cleaning operations that use a solvent that contains a TAC other than Perc, the proposed regulation will require facilities to install, operate, and maintain BACT as required by applicable air pollution control or air quality management district (local air district) rules or regulations. If there is no local air district rule or regulation the facilities will be required to submit to and have approved by the local air district a control method or methods that achieve reductions in the risk associated with the TAC that equal or exceed the reductions for Perc.

In addition, the proposed amended regulation will require all Perc dry cleaning facilities to be equipped with enhanced ventilation systems. Facilities will be given a choice to utilize one of the following: a local ventilation system, a partial vapor barrier room, or a full vapor barrier room. Perc wastewater treatment also requires BACT. Facilities are given the choice to have their wastewater hauled away by a registered hazardous waste transporter, which is regulated in California by a federally authorized State program under the responsibility of the California Department of Toxic Substances Control (DTSC), or treated in a Perc wastewater treatment unit that meets specific requirements.

The proposed amendments to the existing regulation will also require some additional recordkeeping and reporting, and good operating practices. The testing requirements have been amended to be specific to secondary control systems for Perc dry cleaning machines

and to clarify the documentation that manufacturers must submit in order to receive ARB certification.

The staff will be presenting these proposed amendments to the Board for consideration. After considering the proposed amendments, the alternatives discussed below, and the public comments, the Board may choose to adopt these amendments or alternative requirements.

**Description of Alternatives:** The Board may consider alternative approaches to the proposed amendments to the dry cleaning regulation. These alternatives span a range of approaches. The Board could choose to prohibit the use of Perc in new or existing dry cleaning operations by specified dates, either as has been done in the South Coast AQMD rule or through a more effective option. Since one common alternative to the use of Perc involves the release of smog-forming emissions, the Board could also prohibit the use of machines that emit smog-forming emissions as a mitigating action associated with restricting the use of Perc. Non-toxic and non-smog forming alternatives are also available (for example, water-based cleaning and carbon dioxide cleaning). Given these alternatives, the Board could consider requirements related to the use of only non-toxic and non-smog forming emissions by specified dates. The Board could also consider shortening specified dates in the regulation which require certain emission control requirements to be implemented. Finally, the Board could consider specifying risk thresholds above which Perc dry cleaning facilities could not operate, similar to the South Coast AQMD requirements.

## COMPARABLE FEDERAL REGULATIONS

The U.S. EPA promulgated technology-based emissions standards to control emissions of Perc from dry cleaning facilities. The current California regulation was granted federal equivalency on May 21, 1996 (Volume 61, Federal Register, page 25397). Currently, U.S. EPA is accepting comments on a proposed rule to revise standards to limit emissions of Perc from existing and new dry cleaning facilities. Based on the preliminary proposals, staff is confident that the emissions-related requirements of the proposed amended regulation are more stringent than U.S. EPA's proposed rule.

## AVAILABILITY OF DOCUMENTS AND AGENCY CONTACT PERSONS

The Board staff has prepared a "Staff Report: Initial Statement of Reasons for the Proposed Amendments to the Control Measure for Perchloroethylene Dry Cleaning Operations" (Staff Report) for the proposed regulatory action, which includes a summary of the potential environmental and economic impacts of the proposal, if any.



Copies of the Staff Report and the full text of the proposed regulatory language may be obtained from the Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, 1st Floor, Sacramento, California 95814, (916) 322-2990 at least 45 days prior to the May 25, 2006, hearing. In addition, copies of the Executive Summary and the full text of the proposed regulatory language will be available in Korean. The Staff Report is also available on the internet at the website listed below, or by contacting the staff listed below.

Upon its completion, the Final Statement of Reasons (FSOR) will be available and copies may be requested from the agency contact persons in this notice, or may be accessed on the website listed below.

Inquiries concerning the substance of the proposed regulation may be directed to the designated agency contact persons, Robert Krieger, Manager of the Emissions Evaluation Section, at (916) 323-1202 or by email at [rkrieger@arb.ca.gov](mailto:rkrieger@arb.ca.gov), or Mei Fong, Air Resources Engineer, at (916) 324-2570 or by email at [sfong@arb.ca.gov](mailto:sfong@arb.ca.gov).

Further, the agency representative and designated back-up contact persons to whom nonsubstantive inquiries concerning the proposed administrative action may be directed are Artavia Edwards, Manager, Board Administration & Regulatory Coordination Unit, (916) 322-6070, or Alexa Malik, Regulations Coordinator, (916) 322-4011. The Board has compiled a record for this rulemaking action, which includes all the information upon which the proposal is based. This material is available for inspection upon request to the contact persons.

This notice, the Staff Report, and all subsequent regulatory documents, including the FSOR, when completed, are available on the ARB Internet site for this rulemaking at

[www.arb.ca.gov/regact/perc06/perc06.htm](http://www.arb.ca.gov/regact/perc06/perc06.htm)

#### **COSTS TO PUBLIC AGENCIES AND TO BUSINESSES AND PERSONS AFFECTED**

The determinations of the Board's Executive Officer concerning the costs or savings necessarily incurred by public agencies and private persons and businesses in reasonable compliance with the proposed regulations are presented below and in specific detail in the Staff Report.

Pursuant to Government Code sections 11346.5(a)(5) and 11346.5(a)(6), the Executive Officer has determined that the proposed regulatory action will create costs or savings, as explained below, to a state agency or in federal funding to the State, costs or mandate to local agencies whether or not reimbursable by the state pursuant to part 7 (commencing with section

17500), division 4, title 2 of the Government Code, or other nondiscretionary cost or savings to state or local agencies.

The Department of Corrections operates ten dry cleaning machines at ten correctional facilities in California. Nine of the ten dry cleaning machines are Perc machines and will likely require enhanced ventilation. Seven of the ten dry cleaning machines are Perc primary machines and will likely need to be replaced. In addition, secondary machines will be required to have sample ports installed. The Department of Corrections can comply with the amendments by either replacing their existing primary machines with secondary machines or with an alternative dry cleaning process. Depending on the alternative chosen and whether the Department of Corrections has already budgeted for changing out the machines, a switch can result in either a net savings or net increase in cost when compared to current Perc dry cleaning.

The proposed regulatory action will not affect federal funding to the State.

The ARB will be preparing an implementation guidance document and assisting the local air districts with implementation and technical issues related to the amended control measure. The development of the guidance document and most of the assistance to the local air districts will be a one-time cost that will be incurred during fiscal year 2006-2007 or 2007-2008. The estimated cost to ARB would be one quarter of a person/year, or approximately \$25,000. All implementation costs from this rulemaking action would be absorbed within the existing ARB budget.

The proposed amendments to the regulation will require the local air districts to annually report to ARB the total Perc purchases made by the dry cleaning industry in addition to implementation and enforcement activities. The estimated cost impact for the first fiscal year is between \$29,000 and \$46,000, and the estimated cost impact for the first three years is between \$840,000 and \$1,300,000. This estimate is based on local air district assessment of the cost to enforce the proposed amendments. It is anticipated that the local air districts will be able to absorb this additional cost impact within their existing budgets and resources. However, should additional resource be necessary, the local air districts have legal authority under Health and Safety Code Section 40510 and 42311 to levy service charges, fees, or assessments sufficient to fund the requirements of this proposed regulation.

In developing this regulatory proposal, the ARB staff evaluated the potential economic impacts on representative private persons or businesses. The cost impact on the businesses varies depending on how much a facility is already in compliance with the requirements of the proposed regulation and the decision of the Board.

However, the ARB staff has estimated the cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed requirements. The estimated cost impact for a typical dry cleaner includes initial costs ranging from no cost impact (facility is in full compliance) to \$23,000 for the incremental cost of a new integrated secondary control machine.

There are about 860 secondary control Perc machines in California outside of the South Coast AQMD. Some of these facilities may already be in compliance with all the requirements of the proposed amendments and, therefore, may not incur additional initial costs. However, most of the facilities will incur an annual cost to arrange for enhanced leak checks and drum concentration checks as specified by the proposed amendments. Assuming that the local air districts already conduct routine inspections of dry cleaning facilities due to the requirements of the existing Dry Cleaning ATCM, the increased time to conduct the new inspections is two person-hours and a cost of about \$20 annually.

We estimate an annual ongoing cost savings of about \$500 for the typical dry cleaner that purchases a secondary machine. This is calculated from cost savings due to reduced Perc usage, maintenance cost for the secondary control, and cost for the annual leak check. However, for the facilities that opted to use a hydrocarbon dry cleaning process, it is estimated that there would be an annual ongoing cost savings of about \$1,100, mostly due to lowered solvent cost.

The proposed amendments to the regulation will have some additional requirements for testing and certification of integral secondary control machines. This will impact machine manufacturers. We estimate that each certification will incur additional costs ranging from \$600 to \$3,400. This estimate accounts for additional labor, electricity, and gas costs.

The Executive Officer has made an initial determination that the proposed regulatory action will not have a significant statewide adverse economic impact, apart from the impacts described above, directly affecting businesses, including the ability of California businesses to compete with businesses in other states, or on representative private persons.

In accordance with Government Code section 11346.3, the Executive Officer has determined that the proposed regulatory action may have a significant effect on the creation or elimination of jobs within the State of California, the creation of new businesses or elimination of existing businesses within the State of California, or the expansion of businesses currently doing business within the State of California. Some marginal dry cleaning businesses may not have the capital necessary to comply with the amendments, which may result in closure. In order to minimize the economic im-

pact to dry cleaners and minimize the likelihood of facility closures, the proposed amendments to the regulation include a phase-out period which allows dry cleaners, in most cases, to maximize the remaining useful life of their non-complying dry cleaning machines.

The Executive Officer has also determined, pursuant to title 1, CCR, section 4, that the proposed regulatory action will affect small businesses.

In accordance with Government Code sections 11346.3(c) and 11346.5(a)(11), the Executive Officer has found that the reporting requirements of the regulation which apply to businesses are necessary for the health, safety, and welfare of the people of the State of California.

Before taking final action on the proposed regulatory action, the Board must determine that no reasonable alternative considered by the Board or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

A detailed assessment of the economic impacts of the proposed regulatory action can be found in the Staff Report.

## SUBMITTAL OF COMMENTS

The public may present comments relating to this matter orally or in writing at the hearing, and in writing or by e-mail before the hearing. To be considered by the Board, written submissions must be received **no later than 12:00 noon, May 24, 2006**, and addressed to the following:

Postal mail is to be sent to:

Clerk of the Board  
Air Resources Board  
1001 I Street, 23<sup>rd</sup> Floor  
Sacramento, California 95814

Electronic submittal: <http://www.arb.ca.gov/lispub/comm/bclist.php> **no later than 12:00 noon, May 24, 2006**.

Facsimile submissions are to be transmitted to the Clerk of the Board at (916) 322-3928 and received at the ARB **no later than 12:00 noon, May 24, 2006**.

The Board requests but does not require 30 copies of any written submission. Also ARB requests that written, facsimile, and e-mail statements be filed at least ten days prior to the hearing so that ARB staff and Board Members have time to fully consider each comment. The ARB encourages members of the public to bring to the attention of staff in advance of the hearing any suggestions for modification of the proposed regulatory action.

Additionally, the Board requests but does not require, that persons who submit written comments to the Board reference the title of the proposal in their comments to facilitate review.

#### STATUTORY AUTHORITY AND REFERENCES

This regulatory action is proposed under the authority granted to the ARB in Health and Safety Code sections 39600, 39601, 39650, 39655, 39656, 39658, 39659, 39665, and 39666, Health and Safety Code; sections 7412 and 7416, title 42, United States Code. Reference: Health and Safety Code sections 39650, 39655, 39656, 39658, 39659, and 39666, Health and Safety Code; sections 7412 and 7414, title 42, United States Code; Sections 63.320, 63.321, 63.323, and 63.324, title 40, Code of Federal Regulation

#### HEARING PROCEDURES

The public hearing will be conducted in accordance with the California Administrative Procedure Act, title 2, division 3, part 1, chapter 3.5 (commencing with section 11340) of the Government Code.

Following the public hearing, ARB may adopt the regulatory language as originally proposed or with non-substantial or grammatical modifications. The Board may also adopt the proposed regulatory language with other modifications if the text as modified is sufficiently related to the originally proposed text that the public was adequately placed on notice that the regulatory language as modified could result from the proposed regulatory action. In the event that such modifications are made, the full regulatory text, with the modifications clearly indicated, will be made available to the public for written comment at least 15 days before it is adopted.

The public may request a copy of the modified regulatory text from the ARB's Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, 1<sup>st</sup> Floor, Sacramento, California 95814, (916) 322-2990.

### TITLE 17. CALIFORNIA AIR RESOURCES BOARD

#### NOTICE OF PUBLIC HEARING TO CONSIDER THE PROPOSED ADOPTION OF A TEST PROCEDURE FOR PRESSURE/VACUUM VENT VALVES AND PROPOSED AMENDMENTS TO THE REGULATIONS FOR CERTIFICATION OF VAPOR RECOVERY SYSTEMS AT GASOLINE DISPENSING FACILITIES (SERVICE STATIONS)

The Air Resources Board (ARB or Board) will conduct a public hearing at the time and place noted below

to consider adoption of amendments to the regulations for certification of vapor recovery systems installed at gasoline dispensing facilities (service stations and similar facilities).

DATE: May 25, 2006

TIME: 9:00 a.m.

PLACE: California Environmental Protection Agency  
Air Resources Board  
Byron Sher Auditorium, Second Floor  
1001 I Street  
Sacramento, California 95814

This item will be considered at a two-day meeting of the ARB, which will commence at 9:00 a.m., May 25, 2006, and may continue at 8:30 a.m., May 26, 2006. Please consult the agenda for the meeting, which will be available at least 10 days before May 25, 2006, to determine the time when this item will be considered.

For individuals with sensory disabilities, this document is available in Braille, large print, audiocassette, or computer disk. Please contact ARB's Disability Coordinator at (916) 323-4916 by voice or through the California Relay Services at 711, to place your request for disability services. If you are a person with limited English and would like to request interpreter services, please contact ARB's Bilingual Manager at (916) 323-7053.

#### INFORMATIVE DIGEST OF PROPOSED ACTION AND POLICY STATEMENT OVERVIEW

**Sections Affected:** Proposed amendments to section 94011, title 17, California Code of Regulations (CCR), and the incorporated certification and test procedures: Definitions for Vapor Recovery Procedures, D-200, last amended October 8, 2003; Certification Procedure for Vapor Recovery Systems at Gasoline Dispensing Facilities, CP-201, last amended February 9, 2005; Bend Radius Determination for Underground Storage Tank Vapor Return Piping, TP-201.2G, adopted October 8, 2003; Test Procedure for In-Station Diagnostic Systems, TP-201.21, adopted October 8, 2003; and the proposed adoption of incorporated test procedure: Leak Rate and Cracking Pressure of Pressure/Vacuum Vent Valves, TP-201.1E CERT.

**Background:** Throughout California, ARB authorizes the sale, installation, and use of vapor recovery equipment at service stations, also referred to as gasoline dispensing facilities (GDF), through a certification program. Control of the emissions of air pollutants from GDFs is necessary to reduce hydrocarbon emissions that lead to the formation of ozone and to control emissions of benzene, a constituent of gasoline vapor that has been identified as a toxic air contaminant. In March



2000, ARB approved the Enhanced Vapor Recovery (EVR) certification regulations. The EVR regulations established new standards for vapor recovery systems to further reduce emissions during storage and transfer of gasoline at GDFs that use underground storage tanks for gasoline storage. The EVR standards apply to both new and existing facilities and are being phased in from 2001 to 2010. The EVR regulations have been previously updated in 2001, 2002, and 2004, in part, to improve test procedures for vapor recovery system certification.

**Staff's Proposal:** Assembly Bill 2955, enacted in September 2004, requires, among other provisions, that the State Water Resources Control Board determine whether equipment undergoing certification to meet the EVR regulations also meets the underground storage tank statutory requirements as specified in Health and Safety Code section 25290.1.2. The staff proposes that the Certification Procedure for Vapor Recovery at Gasoline Dispensing Facilities (Certification Procedure or CP-201) be amended to reflect this new requirement.

Vapor recovery equipment manufacturers have requested that the EVR regulations be amended to more clearly define and simplify the process for certification. Staff has proposed changes to CP-201 to expand and clarify the certification process, particularly to address the process when equipment manufacturers wish to modify or add alternative components to certified vapor recovery systems.

Concern that the pressure/vacuum (P/V) vent valve (a component of the vapor recovery system) specifications are more stringent than necessary has prompted some stakeholders to request that the certification specifications for P/V vent valves be amended. The concern stems from the delay or termination of system certification testing when P/V vent valves have exceeded the limits of the performance specifications. Staff is proposing modifications to the current performance specifications for cracking pressure and leak rate to better reflect appropriate P/V valve performance needs under actual field conditions. Staff is also proposing adoption of a new test procedure, "Vapor Recovery Test Procedure for Leak Rate and Cracking Pressure of Pressure/Vacuum Vent Valves" (TP-201.1E CERT). The test procedure is intended for use during certification testing and will result in a more accurate, precise, and representative test of P/V vent valves.

The Certification Procedure allows ARB's Executive Officer to delay implementation of the scheduled phased-in of EVR standards and specifications under specified conditions. Executive Officer action in Executive Order G-70-206 delayed the implementation dates associated with some of the EVR requirements to April 1, 2005.

Also, the effective and operative dates for in-station diagnostics in GDFs with gasoline throughput greater than 1.8 million gallons per year were changed by Executive Order to August 1, 2005, and September 1, 2005, respectively (by Executive Officer action in Executive Order G-70-207 and Executive Officer action in Executive Order G-70-208, respectively). These delaying actions are not currently reflected in the regulations. The proposed action would update CP-201's schedule for the phase-in of EVR requirements.

Staff also proposes some reorganization of, and amendments to, CP-201 to improve clarity and readability. Likewise, staff proposes amendments to the definitions in D-200 to clarify and add terms used in the vapor recovery certification and test procedures.

### COMPARABLE FEDERAL REGULATIONS

There are no comparable federal regulations that certify gasoline vapor recovery systems for service stations; however, changes to ARB's vapor recovery regulations have a national impact. The use of ARB-certified systems and equipment is required in most other states that require vapor recovery at service stations.

### AVAILABILITY OF DOCUMENTS AND AGENCY CONTACT PERSONS

The ARB staff has prepared a Staff Report: Initial Statement of Reasons (ISOR) for the proposed regulatory action that includes a summary of the environmental and economic impacts of the proposal. The report is entitled: "Staff Report: Initial Statement of Reasons for Proposed Rulemaking, Public Hearing to Consider the Adoption of a Test Procedure for Pressure/Vacuum Vent Valves and Proposed Amendments to the Regulations for Certification of Vapor Recovery Systems at Gasoline Dispensing Facilities (Service Stations)."

Copies of the ISOR and full text of the proposed regulatory language, in underline and strike-out format to allow for comparison with the existing regulations, may be accessed on the ARB's web site listed below, or may be obtained from the Public Information Office, Air Resources Board, 1001 I Street, Visitors and Environmental Services Center, 1<sup>st</sup> Floor, Sacramento, CA 95814, (916) 322-2990, at least 45 days prior to the scheduled hearing on May 25, 2006.

Upon its completion, the Final Statement of Reasons (FSOR) will be available and copies may be requested from the agency contact persons in this notice, or may be accessed on the web site listed below.

Requests for printed documents and inquiries concerning the substance of the proposed regulations may



be directed to the designated agency contact persons: Mr. Kevin Mongar, Mr. Pat Bennett, or Mr. George Lew, Engineering and Certification Branch, Monitoring and Laboratory Division, at (916) 327-0900.

Further, the agency representative and designated back-up contact person to whom non-substantive inquiries concerning the proposed administrative action may be directed are Artavia Edwards, Manager, Board Administration and Regulatory Coordination Unit, (916) 322-6070, or Alexa Malik, Regulations Coordinator, (916) 322-4011. The Board has compiled a record for this rulemaking action, which includes all the information upon which the proposal is based. This material is available for inspection upon request to the contact persons.

This notice, the ISOR, and all subsequent regulatory documents, including the FSOR, when completed, are available on the ARB Internet site for this rulemaking at <http://www.arb.ca.gov/regact/pvovapor06/pvovapor06.htm>.

#### COSTS TO PUBLIC AGENCIES AND TO BUSINESSES AND PERSONS AFFECTED

The determinations of the Board's Executive Officer concerning the cost or savings necessarily incurred by public agencies and private persons and businesses in reasonable compliance with the proposed regulatory action are presented below.

In developing this regulatory proposal, the ARB staff evaluated the potential economic impacts on representative private persons and businesses. The Executive Officer is not aware of any costs that a representative private person or business would necessarily incur in reasonable compliance with the proposed action. Although not quantifiable, cost savings for vapor recovery equipment manufacturers may occur due to 1) proposed changes to the certification requirements (potentially fewer terminated certification tests), 2) proposed changes to the P/V valve performance specifications and test procedure (potentially fewer terminated certification tests), and 3) proposed improvements in the certification process (more clearly defined and simplified). Cost savings for GDF operators may occur when conducting P/V valve testing under the amended P/V valve performance specifications as there may be fewer test failures and P/V valve replacements. A complete assessment of the economic impacts of the proposed regulatory action can be found in the ISOR.

Pursuant to Government Code sections 11346.5(a)(5) and 11346.5(a)(6), the Executive Officer has determined that the proposed regulatory action will not create costs or savings, to any state agency or in federal funding to the state, costs or mandate to any local agency or school district whether or not reimbursable

by the state pursuant to part 7 (commencing with section 17500), division 4, title 2 of the Government Code, except as discussed above, or other nondiscretionary savings to state or local agencies.

The Executive Officer has made an initial determination that the proposed regulatory action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states, or on representative private persons.

In accordance with Government Code section 11346.3, the Executive Officer has initially determined that the proposed amendments will not affect the creation or elimination of jobs within the State of California, the creation of new businesses and the elimination of existing businesses within the State of California, and the expansion of businesses currently doing business within the State of California. An assessment of the economic impacts of the proposed regulatory action can be found in the ISOR.

The Executive Officer has also determined, pursuant to title 1, CCR, section 4, that the proposed regulatory action affects small businesses.

In accordance with Government Code sections 11346.3(c) and 11346.5(a)(11), the Executive Officer has found that the reporting requirements in the regulations and incorporated documents that apply to businesses are necessary for the health, safety, and welfare of the people of the State of California.

Before taking final action on the proposed regulatory action, the Board must determine that no reasonable alternative considered by the Board or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons or businesses than the proposed action.

#### SUBMITTAL OF COMMENTS

The public may present comments relating to this matter orally or in writing at the hearing, and in writing, or by e-mail before the hearing. To be considered by the Board, written submissions not physically submitted at the hearing must be received no later than **12:00 noon May 24, 2006**, and addressed to the following:

Postal Mail is to be sent to:

Clerk of the Board  
Air Resources Board  
1001 I Street, 23<sup>rd</sup> Floor  
Sacramento, CA 95814

Electronic submittal: <http://www.arb.ca.gov/lispub/comm/bclist.php> no later than **12:00 noon, May 24, 2006**.

Facsimile submissions are to be transmitted to the Clerk of the Board at (916) 322-3928 and received at the ARB no later than **12:00 noon, May 24, 2006.**

The Board requests, but does not require, 30 copies of any written statement be submitted and that all written statements be filed at least 10 days prior to the hearing so that ARB staff and Board Members have time to fully consider each comment. The ARB encourages members of the public to bring any suggestions for modification of the proposed regulatory action to the attention of staff in advance of the hearing.

## STATUTORY AUTHORITY AND REFERENCES

This regulatory action is proposed under the authority granted to the ARB in sections 25290.1.2, 39600, 39601, 39607, and 41954 of the Health and Safety Code. This action is proposed to implement, interpret, or make specific sections 25290.1.2, 39515, 41952, 41954, 41956.1, 41959, 41960 and 41960.2 of the Health and Safety Code.

## HEARING PROCEDURES

The public hearing will be conducted in accordance with the California Administrative Procedure Act, title 2, division 3, part 1, chapter 3.5 (commencing with section 11340) of the Government Code.

Following the public hearing, the ARB may adopt the regulatory language as originally proposed or with non-substantial or grammatical modifications. The ARB may also adopt the proposed regulatory language with other modifications if the modifications are sufficiently related to the originally proposed text that the public was adequately placed on notice that the regulatory language as modified could result from the proposed regulatory action. In the event that such modifications are made, the full regulatory text, with the modifications clearly indicated, will be made available to the public for written comment at least 15 days before it is adopted.

The public may request a copy of the modified regulatory text from the ARB's Public Information Office, Visitors and Environmental Services Center, 1001 I Street, First Floor, Sacramento, California 95814, (916) 322-2990.

## GENERAL PUBLIC INTEREST

### TITLE 2. DEPARTMENT OF FAIR EMPLOYMENT AND HOUSING

NOTICE IS HEREBY GIVEN that the prospective contractors listed below have been required to submit a Nondiscrimination Program (NDP) or a California Employer Identification Report (CEIR) to the Department of Fair Employment and Housing, in accordance with the provisions of Government Code Section 12990. No such program or (CEIR) has been submitted and the prospective contractors are ineligible to enter into State contracts. The prospective contractor's signature on Standard Form 17A, 17B, or 19, therefore, does not constitute a valid self-certification. Until further notice, each of these prospective contractors in order to submit a responsive bid must present evidence that it's Nondiscrimination Program has been certified by the Department.

ASIX Communications, Inc.  
DBA ASI Telesystems, Inc.  
21150 Califa Street  
Woodland Hills, CA 91367

Bay Recycling  
800 77th Avenue  
Oakland, CA 94621

C & C Disposal Service  
P.O. Box 234  
Rocklin, CA 95677

Choi Engineering Corp.  
286 Greenhouse Marketplace, Suite 329  
San Leandro, CA 94579

Fries Landscaping  
25421 Clough  
Escalon, CA 95320

Marinda Moving, Inc.  
8010 Betty Lou Drive  
Sacramento, CA 95828

MI-LOR Corporation  
P.O. Box 60  
Leominster, MA 01453

Peoples Ridesharing  
323 Fremont Street  
San Francisco, CA 94105

San Diego Physicians & Surgeons Hospital  
446 26th Street  
San Diego, CA

Southern CA Chemicals  
8851 Dice Road  
Santa Fe Springs, CA 90670

Tanemura and Antle Co.  
1400 Schilling Place  
Salinas, CA 93912

Turtle Building Maintenance Co.  
8132 Darien Circle  
Sacramento, CA 95828

Univ Research Foundation  
8422 La Jolla Shore Dr.  
La Jolla, CA 92037

Vandergoot Equipment Co.  
P.O. Box 925  
Middletown, CA 95461

## DEPARTMENT OF FISH AND GAME

California Department of Fish and Game  
Consistency Determination  
Fish and Game Code Section 2080.1  
California Endangered Species Act (CESA)  
No. 2080-2006-005-04

Project: Santa Nella HCP  
Location: Santa Nella, Merced County  
Notifier: Marc J. Ebbin of Ebbin Moser + Skaggs,  
LLP, on behalf of Arnaudo Brothers,  
Wathen-Castanos, Parkway South, Inc.

### BACKGROUND

The unincorporated community of Santa Nella is located in western Merced County in the transitional zone between agricultural lands and foothill grasslands. Presently, much of the land in the Santa Nella community is undeveloped. Approximately half of the undeveloped land is fallow, while the remainder is in active agriculture, including row crops, orchards, and grazed rangeland. The Santa Nella region represents a significant constriction in the range of San Joaquin kit fox (*Vulpes macrotis mutica*) due to past land conversions and existing barriers to movement, such as those posed by San Luis Reservoir, O'Neill Forebay, the Delta-Mendota Canal, and the California Aqueduct. Maintaining a movement corridor from south to north in the Santa Nella region is one of the primary recovery objectives for this species. Species experts are concerned that the smaller northern populations of kit fox may not persist without an influx of genes from the larger kit fox populations south of Santa Nella.

Several residential developments are proposed within the approximately 2,560-acre Santa Nella Community Specific Plan (CSP) area. Four of the proposed residential and commercial developments were included in the Santa Nella Habitat Conservation Plan (HCP). The HCP addresses permanent impacts on 180.4 acres and 16.3 acres of temporary impacts associated with infrastructure supporting the wastewater treatment facility. The four sites, Arnaudo 1, Arnaudo 2, Wathen-Castanos, and Parkway South, are within, and adjacent to, the Santa Nella Community Specific Plan CSP area. This Consistency Determination addresses all four sites, which are the subjects of three separate federal Incidental Take Permits as described below. The four projects are collectively referred to as the "projects."

Lands that will be set aside for corridors are currently under the ownership of the HCP participants. On-site lands dedicated for the establishment of corridors will be permanently set-aside with a conservation easement. The easements will be held by CNLM or another qualified entity. Such easements shall be recorded within six months of the issuance of incidental take permits.

Prior to construction impacts, the HCP participants must demonstrate to the Service that they have secured the required mitigation land acreages by: 1) acquiring property in fee title and placing conservation easements over the property, 2) purchasing conservation easements over lands they will not acquire in fee title, or 3) entering into an option agreement, purchase agreement, or letter of intent for the same. Mitigation lands will be administered by a Land Management and Monitoring Plan approved by the Service. The Land Management and Monitoring Plan will be finalized within six months of recording a permanent conservation easement or grant deed and easement for the mitigation site(s), or from the time of issuance of the permits, whichever occurs last.

In addition to protection of off-site habitat, movement corridors will be established in the Santa Nella HCP area by all 3 participants in the HCP (Arnaudo Brothers, Wathen-Castanos, and Parkway South) as follows:

- An existing 100-foot wide corridor previously dedicated within the Arnaudo Brothers parcel along the Delta-Mendota Canal (11.47 acres)
- An additional 100-foot wide corridor within the Arnaudo Brothers parcel east and north along the Delta-Mendota Canal (11.56 acres)
- A 100-foot wide corridor within the Arnaudo Brothers parcel extending along the north side of the San Luis Wasteway extending west and north along the Delta Mendota Canal (14.95 acres)



- A 120-foot (36.6-meter) wide corridor west of the Outside Canal within the Wathen–Castanos parcel (2.5 acres)
- A 120-foot (36.6-meter) wide corridor west of the Outside Canal with the Arnaudo Brothers parcel (9.96 acres)
- A 200-foot (61-meter) wide corridor west of the Outside Canal within the Parkway South parcel (12.0 acres)

Perpetual kit fox management and monitoring, periodic maintenance, and reporting concerning the on-site corridors and off-site mitigation lands will be funded through a perpetual funding mechanism to be established by the HCP participants. The HCP allowed for the endowment to be funded through an assessment district or other means acceptable to the Service. In letters to Ken McDermond of the U.S. Fish and Wildlife Service (Service) dated February 16 and 27, 2006, the HCP participants proposed an alternative funding mechanism to fund management and monitoring of onsite mitigation lands for the Santa Nella HCP and acquisition of offsite mitigation lands as specified in the Permit. The Service subsequently approved this funding mechanism in a letter signed by Susan Moore, Acting Field Supervisor, and dated March 24, 2006. This alternative funding mechanism was developed with input from the Department. This Consistency Determination is based upon this alternative funding strategy and other commitments made in the February 16 and 27 letters in addition to the terms of the federal permits, HCP and Implementing Agreement.

A more detailed assessment of long term management costs will be undertaken as part of the development of the Land Management and Monitoring Plan. This cost assessment will be conducted using a Property Analysis Record (PAR) analysis developed by CNLM. The PAR analysis will be included as an appendix in the final Land Management and Monitoring Plan. An ongoing contingency expense for responding to changed circumstances will be factored into the funding requirements for ongoing stewardship. The PAR analysis will contain descriptions and cost estimates for upfront and long-term tasks associated with the management and monitoring of habitat lands, implementation of pre-construction and construction take avoidance and minimization measures, and initial short-term activities, such as fencing, gates, and initial debris clean-up.

#### Wathen–Castanos Development

The Wathen–Castanos development is situated north of State Route 152 and east of State Route 33. This residential development will permanently impact a total of 58.4 acres. Sewer lines extending 3,835 feet from the Parkway South wastewater treatment plant will support the Wathen–Castanos development. Installation within

the 50-ft construction easement will temporarily impact 4.4 acres. Habitat on the development site currently consists of dry land farming, which provides potential foraging habitat for San Joaquin kit fox. Land uses surrounding the Wathen–Castanos site include the Arnaudo 1 and 2 developments to the west, dryland farming to the north, east, and south, and Interstate 5 to the northeast. The Delta–Mendota Canal is less than a half mile to the south. The western edge of the Wathen–Castanos project area is bordered by State Route (SR) 33.

Because of the potential for the Wathen–Castanos project to take species protected by the Federal Endangered Species Act, on November 28, 2005, the Service issued Incidental Take Permit No. TE016740–0 for the Wathen–Castanos development and Santa Nella HCP, describing the project actions and setting forth measures to mitigate impacts to the San Joaquin kit fox (*Vulpes macrotis mutica*) and its habitat.

The number of individual San Joaquin kit foxes likely to be taken as a result of the Wathen–Castanos project is difficult to estimate due to the unknown number of San Joaquin kit foxes that will utilize or move through the project sites during the 10-year duration of the permit. Wathen–Castanos anticipates that an un-quantifiable number of San Joaquin kit fox may be incidentally taken as a result of the permanent loss of 58.4 acres and the temporary loss of 4.4 acres of suitable habitat. Because kit foxes rarely occur within the Santa Nella CSP area and avoidance and minimization measures will be implemented, the probability of killing or injuring a San Joaquin kit fox during construction activities, or associated development, is low.

Wathen–Castanos will mitigate the permanent loss of 58.4 acres of suitable habitat for the San Joaquin kit fox by preserving on-site habitat contiguous with existing corridors or rights-of-way and by providing replacement habitat off-site at a 2:1 ratio. The off-site habitat will be protected in perpetuity through conservation easements or fee title acquisitions with conservation easements. In the event that land is preserved through conservation easement, such easements will be held by an entity approved by the Service, such as the Center for Natural Lands Management (CNLM). The CNLM has agreed to hold easements on behalf of the Applicants. Should fee title acquisitions be used, the Service will be notified of the titleholder and manager, as well as the easement holder. Conservation easements will be recorded within six months of Incidental Take Permit issuance. Off-site habitat will be protected on the Stadler Ranch, which is located within the Los Banos Valley at elevations between 400 and 1,500 feet in elevation. Most of the Ranch is non-grassland with scattered areas of alkali playa. The Ranch and the surrounding properties are known kit fox areas and are utilized by an established core kit fox population in the Panoche area (19



miles southeast). In the event that the Stadtler Ranch property is unavailable, the HCP participants will meet and confer with the Service to identify an alternative property. The Applicants and the Service have identified the Honorine property as appropriate for off-site mitigation, should it become available.

#### Arnaudo 1 and Arnaudo 2 Developments

The Arnaudo 1 and Arnaudo 2 sites are situated north of State Route 152 and west of State Route 33. They include 90 acres of future residential and commercial development and 20 acres of existing development, for a total permanent impact of 110 acres. Sewer lines extending 10,355 feet from the Parkway South wastewater treatment plant will support the Arnaudo 1 site. Installation within the 50-ft construction easement will temporarily impact an additional 11.89 acres. The U.S. Fish and Wildlife Service (Service) requested that the 20 acres of existing development at the Arnaudo 2 site be incorporated into the project to recompense previous impacts. All undeveloped portions of the sites currently consist of grassland habitat, which provides habitat for San Joaquin kit fox. Prior to development, the 20 acre Arnaudo 2 site also provided suitable habitat for the San Joaquin kit fox. Land uses surrounding the Arnaudo projects include residential development to the northeast and the Delta-Mendota Canal and DFG's O'Neill Forebay State Wildlife Area to the south and southwest, respectively. The eastern edge of the Arnaudo project area is bordered by State Route (SR) 33.

Because of the potential for the Arnaudo 1 and 2 projects to take species protected by the Federal Endangered Species Act, on November 28, 2005, the Service issued Incidental Take Permit No. TE016739-0 for the Arnaudo Brothers development and Santa Nella HCP, describing the project actions and setting forth measures to mitigate impacts to the San Joaquin kit fox (*Vulpes macrotis mutica*) and its habitat.

The number of individual San Joaquin kit foxes likely to be taken as a result of the project is difficult to estimate due to the unknown number of San Joaquin kit foxes that will utilize or move through the project sites during the 10-year duration of the permit. Arnaudo Brothers anticipate that an un-quantifiable number of San Joaquin kit fox may be incidentally taken as a result of the permanent loss of 110 acres and the temporary loss of 11.89 acres of suitable habitat. Because kit foxes rarely occur within the Santa Nella CSP area and avoidance and minimization measures will be implemented, the probability of killing or injuring a San Joaquin kit fox during construction activities, or associated development, is low.

Arnaudo Brothers will mitigate the permanent loss of 110 acres of suitable habitat for the San Joaquin kit fox by preserving on-site habitat contiguous with existing

corridors or rights-of-way and by providing replacement habitat off-site at a 2:1 ratio. The off-site habitat will be protected in perpetuity through conservation easements or fee title acquisitions with conservation easements. In the event that land is preserved through conservation easement, such easements will be held by an entity approved by the Service, such as the Center for Natural Lands Management (CNLM). The CNLM has agreed to hold easements on behalf of the Applicants. Should fee title acquisitions be used, the Service will be notified of the titleholder and manager. Conservation easements will be recorded within six months of HCP permit issuance. Off-site habitat will be protected on the Stadtler Ranch, which is located within the Los Banos Valley at elevations between 400 and 1,500 feet in elevation. Most of the Ranch is non-grassland with scattered areas of alkali playa. The Ranch and the surrounding properties are known kit fox areas and are utilized by an established core kit fox population in the Panache area (19 miles southeast). In the event that the Stadtler Ranch property is unavailable, the HCP participants will meet and confer with the Service to identify an alternative property. The Applicants and the Service have identified the Honorine property as appropriate for off-site mitigation, should it become available.

#### Parkway South Development

The Parkway South wastewater treatment plant is situated north of State Route 152, east of Interstate 5, and adjacent to the southwest edge of the Outside Canal. This wastewater treatment plant will permanently impact a total of 12 acres. Habitat on the treatment plant site currently consists of dry land farming, which provides potential foraging habitat for San Joaquin kit fox. Land uses surrounding the wastewater treatment plant site include the Monte Dorado residential development to the southwest, irrigated agricultural crops to the north and east, and dryland farming to the south and west.

Because of the potential for the wastewater treatment plant to take species protected by the Federal Endangered Species Act, on November 28, 2005, the Service issued Incidental Take Permit No. TE115585-0 for the Parkway South wastewater treatment plant and Santa Nella HCP, describing the Project actions and setting forth measures to mitigate impacts to the San Joaquin kit fox (*Vulpes macrotis mutica*) and its habitat.

The number of individual San Joaquin kit foxes likely to be taken as a result of the project is difficult to estimate due to the unknown number of San Joaquin kit foxes that will utilize or move through the project sites during the 10-year duration of the permit. Parkway South anticipates that an un-quantifiable number of San Joaquin kit fox may be incidentally taken as a result of the permanent loss of 12 acres of suitable habitat. Because kit foxes rarely occur within the Santa Nella CSP

area and avoidance and minimization measures will be implemented, the probability of killing or injuring a San Joaquin kit fox during construction activities, or associated development, is low.

Parkway South will mitigate the permanent loss of 12 acres of suitable habitat for the San Joaquin kit fox through the permanent preservation of approximately 48 acres of kit fox habitat, including approximately 12 acres of setbacks for kit fox corridors along the Outside Canal and 36 acres (3:1 ratio) on the Quinto property which is north of the Santa Nella CSP area and currently under their ownership. The Quinto property is located less than 1 mile northeast of the CSP area, within an area identified by the Service as important for kit fox connectivity north of Santa Nella. This property is adjacent to the 29,045-acre Romero Ranch, which is protected as habitat by a conservation easement managed by The Nature Conservancy. Ground squirrels and their burrows have been observed in numerous locations on the Quinto property, indicating that this habitat is suitable for kit fox foraging and denning. Parkway South has already acquired the property to be set aside, and has established a conservation easement in anticipation of mitigation needs related to the development of the wastewater treatment plant.

#### Request for Consistency Determination

San Joaquin kit fox is also listed as a threatened species under the California Endangered Species Act, Fish and Game Code Section 2050 et seq. (CESA). On February 23, 2006, the Director of DFG received a request from Marc J. Ebbin, representing the three Santa Nella HCP participants, for a determination pursuant to Section 2080.1 of the Fish and Game Code that the three federal incidental take permits for the HCP are consistent with CESA.

In its review of the Santa Nella HCP and federal permits, DFG requested clarification of some of the provisions in the HCP and the related Implementing Agreement. The permit holders provided clarification of how the HCP and Implementing Agreement would be implemented in letters dated February 16, and 27, 2006 to Mr. Kenneth McDermond, Deputy Manager of the Service's California-Nevada Operations Office. In these letters, representatives of Wathen-Castanos and Arnaudo 1 and Arnaudo 2 stated, among other things, that these two permit holders would fund a non-wasting endowment sufficient to fund long-term management of mitigation lands, record conservation easements over all on-site and off-site mitigation lands, and maintain two letters of credit required under the Implementing Agreement until mitigation lands are protected and the land management endowment is funded. On March 24, 2006, the Service responded with a letter to the permit holders concurring that provisions in the February 16

and 27 letters would be followed in implementing the HCP.

#### DETERMINATION

Based on the terms and conditions of the federal take permits and associated documents, DFG has determined that Incidental Take Permits Nos. TE016740-0, TE016739-0, and TE115585-0 are consistent with CESA because the projects as mitigated will meet the conditions set forth in Fish and Game Code Section 2081(b) and (c) for authorization of Incidental take of species protected under CESA. Important to DFG's findings are several measures from the HCP, which the permits require permittees to implement, that address expected or potential impacts to San Joaquin kit fox. These include, but are not limited to, the following:

1. A total of 62.4 acres of on-site corridors and refugia will be permanently protected by conservation easements and managed for kit fox in perpetuity.
2. A total of 376 acres of off-site habitat will be purchased and protected with conservation easements or protected with conservation easements alone, as described in the February letters. Thirty-six of these acres will be protected within the Quinto Ranch, and 340 acres will be protected within the Stadtler or Honorine Ranches.
3. Annual management of the onsite mitigation lands (e.g. corridors and refugia) will be funded for the first three years after Incidental Take Permit issuance by a lump sum payment of \$136,000. Of this amount, \$100,000 will be used to provide for the initial management activities, such as installation of fences and escape dens, and debris clean-up. The remaining \$36,000 will be used to fund the management and monitoring of the on-site mitigation lands for the first three years. The \$136,000 will be deposited into an account dedicated exclusively to management and monitoring of the mitigation lands prior to construction activities.
4. As described in the February letters, no later than November 28, 2008, a lump sum amount determined by a Property Analysis Record (PAR) and secured by a letter of credit will be provided to fund an additional three years of management and monitoring.
5. Through the two deposits described in numbers 3 and 4 above, the HCP participants will directly fund the first six years of management and monitoring. The short-term funding will be made available to the Center for Natural Lands

Management (CNLM) or another entity acceptable to the Service to be used solely for management and monitoring of the mitigation lands.

6. The perpetual management and monitoring of the on and off site mitigation lands (for year 7 and beyond) will be funded through a non-wasting endowment provided by the HCP participants, as described in the February letters. No later than November 28, 2010, the HCP participants will create a non-wasting endowment of sufficient size to fund perpetual management and monitoring, as determined by the PAR analysis. The PAR analysis will calculate the annual funding necessary to accomplish management and monitoring activities, and the size of the perpetual non-wasting endowment needed to generate the necessary annual funding. The endowment will begin to provide perpetual funding for management and monitoring beginning on November 28, 2011. The annual revenue stream generated by the endowment would be used by CNLM, or another qualified entity acceptable to the Service, to undertake the perpetual management and monitoring specified in the Management and Monitoring Plan. The endowment will be secured by a Letter of Credit acceptable to the Service until the endowment is fully funded.
7. A Letter of Credit will also be used to ensure the acquisition of offsite mitigation lands, in the event that the HCP participants were not be able to acquire mitigation lands and/or mitigation easements.
8. The Letter of Credit securing the HCP participants obligation to protect mitigation lands would remain in place until all habitat lands and/or easements are acquired.
9. The Letters of Credit securing the establishment of a non-wasting endowment will remain in place until the endowment is fully funded.
10. All off-site mitigation lands will be protected with conservation easements, including those acquired in fee title. Such easements shall be recorded no later than May 28, 2008, as described in the February letters.
11. On-site lands dedicated for the establishment of corridors will be permanently protected through a conservation easement. These easements will be held by CNLM or another qualified entity acceptable to the Service. Such easements shall be recorded within six months of the issuance of incidental take permits, no later than May 28, 2006.
12. Three-strand barbed wire fence will be installed along the outside edge of the onsite movement corridors to preclude adjacent, non-compatible uses from occurring within the corridors. The barbed wire fences will be installed as a component of the initial capital improvements within the corridors.
13. Signs prohibiting humans and their pets from using the corridors shall be placed at all corridor entrances and at quarter-mile intervals. Leash laws shall be enforced.
14. Night lighting within the proposed residential and commercial developments adjacent to the corridors will be designed and installed to confine direct light rays to areas outside of the corridors. Installing lights within kit fox corridors will be prohibited.
15. Because adjacent lands will be maintained in agriculture and access will be extremely limited, recreational use of agricultural lands will be minimal. In accordance with the California Penal Code Section 602.8, relating to trespassing, signs forbidding trespass shall be displayed at intervals not less than three to the mile along all exterior boundaries and at all roads and trails entering the corridors and off-site preserve.
16. Pre-construction surveys shall be conducted no less than 14 days and no more than 30 days prior to the beginning of ground disturbance and/or construction activities for any project activity likely to impact the San Joaquin kit fox. Pre-construction survey reports will be provided to the Service within five days of completing surveys. If construction is phased, pre-construction surveys will be conducted for each phase according to the timing and schedule stated above.
17. Construction monitoring will be conducted by a qualified biologist throughout the construction period. A report will be submitted to the Service 60 days after completion of each year's construction phase.
18. Mitigation site monitoring will be conducted by a qualified biologist, as approved in Mitigation & Monitoring Plan. An Annual Report will be submitted to the Service one year after permit issuance and annually thereafter.



19. An employee education program will be conducted prior to the initiation of ground disturbance activities. The program will consist of a briefing by persons knowledgeable in San Joaquin kit fox biology and the regulatory requirements for contractors and their employees involved in construction of the project. The program will include the following: a description of the San Joaquin kit fox and its habitat needs; a report on the occurrence of San Joaquin kit fox in the project area; an explanation of the status of the species and its protection under the ESA; and a list of measures being taken to reduce effects to the San Joaquin kit fox during project construction and implementation. A fact sheet conveying this information will be prepared for distribution to all those who enter the project site.
20. A representative will be appointed by the project proponent to be the point of contact for any employee or contractor who inadvertently kills or injures a San Joaquin kit fox, or who finds a dead, injured or trapped individual. This representative will be identified during the employee education program. The representative's name and telephone number will be provided to the Service. Any contractor, employee or agency personnel who inadvertently kills or injures a San Joaquin kit fox shall immediately report the incident to the representative. In the case of a dead, injured, or trapped San Joaquin kit fox this representative will contact the CDFG immediately. The CDFG contact for immediate assistance is State Dispatch at (916) 445-0045. They will contact the local warden or biologist.
21. Project-related vehicles will observe a 20-mph (32 kph) speed limit in the project area, except on county roads and state and federal highways.
22. To the extent practicable, nighttime construction will be minimized.
23. Off-road traffic outside of designated project areas will be prohibited.
24. To prevent inadvertent entrapment of San Joaquin kit foxes or other animals during the construction phases of the projects, all excavated, steep-walled holes or trenches more than 2 feet deep will be covered at the close of each working day by plywood or similar materials, or be equipped with one or more escape ramps constructed of earth fill or wooden planks. Before such holes or trenches are filled, they will be thoroughly inspected for trapped animals. In the case of trapped animals, escape ramps or structures will be installed immediately to allow the animal(s) to escape, or the Service shall be contacted for advice.
25. All construction pipes, culverts, or similar structures with a diameter of 4 inches or greater, that are stored at a construction site for one or more overnight periods, will be thoroughly inspected for San Joaquin kit foxes before the pipe is buried, capped, or otherwise used or moved in any way. If a San Joaquin kit fox is discovered inside a pipe, that section of pipe will not be moved until the Service has been consulted. If necessary, under the direct supervision of a qualified biologist, the pipe may be moved once to remove it from the path of construction activity.
26. All food related trash items such as wrappers, cans, bottles, and food scraps should be disposed of in a closed container and removed from the project site at the end of each workday.
27. No firearms shall be allowed on the project site.
28. To prevent harassment/mortality of San Joaquin kit foxes, or destruction of dens by dogs or cats, no pets will be permitted on project sites.
29. Use of rodenticides and herbicides in project areas during construction will be prohibited.
30. Upon completion of the project, all areas subject to temporary ground disturbances, including storage and staging areas, temporary roads, pipeline corridors, etc., will be re-contoured if appropriate, and re-vegetated to promote restoration of the area to conditions suitable for San Joaquin kit fox. An area subject to temporary disturbance means any area disturbed during the project, but after project completion will not be subject to further disturbance and has the potential to be restored. The Management and Monitoring Plan, to be finalized within six months of recording a permanent conservation easement or grant deed for the mitigation habitat, will contain the revegetation plan. The plan will identify success criteria that must be met before the revegetation efforts are deemed complete.
31. The Service's Sacramento Office and CDFG will be notified in writing within three working days of any accidental death or injury to a San Joaquin kit fox during project related activities. Notification must include the date, time, and location of the incident and any other pertinent information. The Service contact is Chief of the Division of Endangered Species, U.S. Fish and Wildlife Service, 2800 Cottage Way, Room W-2605, Sacramento, CA 95825. The CDFG contact is Mr. Ron Schlorff, California Department of Fish and Game, 1416 9<sup>th</sup> St., Sacramento, CA 95814.



32. Escape areas will be established approximately every one-eighth mile within the established corridors to provide kit foxes opportunities to escape from predators in these areas. The first escape tunnels will be placed as close as feasible to the entrance of each corridor segment established by the Applicants. These escape tunnels differ from artificial dens in that they will not include a larger inner chamber, therefore they will not be expected to provide denning opportunities, but instead will allow kit foxes to escape from potential predators such as dogs and coyotes.
33. If habitat quality within the corridors or preserved lands degrades as a result of invasive plant species, drought, or fire, the HCP participants or their designated habitat manager will implement management actions necessary to maintain habitat quality and facilitate population interchange.
34. A monitoring report prepared by the monitoring biologist will be forwarded to the Conservation Planning Division Chief, at the Sacramento Service Office, and to the Region 4 Office of the CDFG in Fresno, within 90 days after each monitoring period. These reports will provide the following information: date(s) that monitoring occurred; summary of monitoring methodology used; results, including number of San Joaquin kit foxes observed, if any; recommended modification to existing monitoring protocol, if any; and other pertinent information.

Pursuant to Section 2080.1 of the Fish and Game Code, with this determination, no authorization is required under CESA for incidental take of San Joaquin kit fox resulting from each of the three projects, provided each project is implemented as described in the HCP, Implementing Agreement and February letters. If there are any substantive changes to any of the projects as described in these documents, including changes to the mitigation measures, or if the Service amends or replaces the HCP, the holder of the affected permit must obtain a new Consistency Determination or a CESA Incidental Take Permit from the DFG.

DFG requests that the three federal permit holders provide copies of all annual reports, other monitoring reports, and other circulated materials relevant to the Project's effects on San Joaquin kit fox to DFG at the following address or at any substitute location that DFG may subsequently identify.

San Joaquin Valley and Southern Sierra Region  
Department of Fish and Game  
1234 East Shaw Avenue  
Fresno, California 93710

## DEPARTMENT OF FISH AND GAME

### Public Interest Notice for Publication on April 7, 2006 PROPOSED RESEARCH ON TWO FULLY PROTECTED SPECIES OF BIRDS:

#### Conducting Surveys for the California Black Rail and California Clapper Rail

The Department of Fish and Game (Department) is evaluating an application received from Peggy Olofson, President; Olofson Environmental Inc.; Berkeley, California, for authorization to take, for research purposes and consistent with conservation and recovery of the species, the California black rail (*Laterallus jamaicensis coturniculus*) (black rail) and the California clapper rail (*Rallus longirostris obsoletus*) (clapper rail). The black rail and the clapper rail are Fully Protected species of birds. The proposed activity consists of the following: 1) searching for vocalizing individuals of the black rail and the clapper rail, employing playback of tape-recorded, species-specific vocalizations, to determine distribution and status of local populations; Olofson Environmental Inc. would collect data by interpreting calls received from marsh birds responding to the tape and by observing individual birds; and 2) closely approaching nests of the black rail and clapper rail, to follow the progress of eggs laid in those nests. There would be no attempt to capture individuals of the black rail or the clapper rail.

Prior to beginning work on the black rail and the clapper rail, the researchers for Olofson Environmental Inc. would obtain the necessary State scientific collecting permit (SCP) allowing take of native wildlife. SCP conditions require that the holder of this permit obtain additional, special authorization from the Department for research on Fully Protected species. The Department would provide the special authorization to Olofson Environmental Inc. through specific written conditions in a Memorandum of Understanding (MOU), a specific type of permit identified in the California Endangered Species Act.

Pursuant to California Fish and Game Code (FGC) Section 3511(a)(1), the Department may authorize take of a Fully Protected species of bird after a notice of 30 days has been provided to affected and interested parties through publication of a notice in the California Regulatory Notice Register. If the Department determines that the proposed research by Olofson Environmental Inc. is consistent with the requirements of FGC Section 3511 for take of Fully Protected birds, it would issue the authorization on or after May 8, 2006, for an initial term not to exceed five years. Contact John Gus-

tafson, Habitat Conservation Planning Branch, Department of Fish and Game, 1416 Ninth Street, 12<sup>th</sup> Floor, Sacramento, California 95814, telephone (916) 654-4260.

## PROPOSITION 65

### OFFICE OF ENVIRONMENTAL HEALTH HAZARD ASSESSMENT

CALIFORNIA ENVIRONMENTAL  
PROTECTION AGENCY  
OFFICE OF ENVIRONMENTAL HEALTH  
HAZARD ASSESSMENT

#### NOTICE OF WITHDRAWAL OF PROPOSED RULEMAKINGS

TITLE 22, CALIFORNIA CODE OF  
REGULATIONS AMENDMENTS  
TO SECTION 12601:  
CLEAR AND REASONABLE WARNINGS

AMENDMENTS TO SECTION 12705(b) AND (c):  
SPECIFIC REGULATORY LEVELS POSING NO  
SIGNIFICANT RISK

AMENDMENTS TO SECTION 12705(e):  
SPECIFIC REGULATORY LEVELS POSING NO  
SIGNIFICANT RISK: ACRYLAMIDE

April 7, 2006

[Notice was posted on the OEHHA web site on  
March 27, 2006]

NOTICE IS HEREBY GIVEN that pursuant to Government Code section 11347(a), the Office of Environmental Health Hazard Assessment (OEHHA) is withdrawing the three regulatory proposals listed above, which were submitted on April 8, 2005 to the Office of Administrative Law (OAL).

OEHHA held a public hearing on the proposed regulations in May of 2005 and received voluminous comments on the proposals, but was unable to complete the review of those comments and the redraft of the regulatory proposals within the one-year time frame allowed by law. OEHHA intends to submit new proposed regulations regarding this subject to OAL within 60 days.

Notice will be provided in the *California Regulatory Notice Register* and on OEHHA's Web site when the new regulatory proposals are submitted.

## DISAPPROVAL DECISIONS

### DEPARTMENT OF FOOD AND AGRICULTURE

#### DECISIONS OF DISAPPROVAL OF REGULATORY ACTIONS

Printed below are the summaries of Office of Administrative Law disapproval decisions. Disapproval decisions are available at [www.oal.ca.gov](http://www.oal.ca.gov). You may also request a copy of a decision by contacting the Office of Administrative Law, 300 Capitol Mall, Suite 1250, Sacramento, CA 95814-4339, (916) 323-6225 — FAX (916) 323-6826. Please request by OAL file number.

#### STATE OF CALIFORNIA OFFICE OF ADMINISTRATIVE LAW

In re:

DEPARTMENT OF FOOD AND AGRICULTURE  
REGULATORY ACTION:

Title 3, California Code of Regulations

Adopt Sections: 1190, 1190.1, 1190.2, 1190.3 and  
1190.4

#### DECISION OF DISAPPROVAL OF REGULATORY ACTION

(Gov. Code, sec. 11349.3)

OAL File No. 06-0202-03 S

#### SUMMARY OF REGULATORY ACTIONS

This regulatory action deals with transporters of inedible kitchen grease ("transporters"). On March 17, 2006, the Office of Administrative Law ("OAL") notified the Department of Food and Agriculture ("Department") that OAL disapproved the proposed regulations because they failed to comply with the Consistency, Clarity and Necessity standards contained in Government Code section 11349.1.

March 23, 2006

BARBARA ECKARD  
Senior Staff Counsel

For:

WILLIAM L. GAUSEWITZ  
Director

Original: A. G. Kawamura, Secretary

Cc: Nancy Grillo

## SUMMARY OF REGULATORY ACTIONS

### REGULATIONS FILED WITH SECRETARY OF STATE

This Summary of Regulatory Actions lists regulations filed with the Secretary of State on the dates indicated. Copies of the regulations may be obtained by contacting the agency or from the Secretary of State, Archives, 1020 O Street, Sacramento, CA, 95814, (916) 653-7715. Please have the agency name and the date filed (see below) when making a request.

#### CALIFORNIA SCHOOL FINANCE AUTHORITY CSFP — State Charter School Facilities Incentive Grants Program

This Certificate of Compliance makes permanent regulations adopted previously as an emergency to establish the application process for funds received from the U. S. Department of Education, State Charter School Facilities Incentive Grants Program.

##### Title 4

##### California Code of Regulations

ADOPT: 10175, 10176, 10177, 10178, 10179, 10180, 10181, 10182, 10183, 10184, 10185, 10186, 10187, 10188, 10189, 10190, 10191

Filed 03/24/06

Effective 03/24/06

Agency Contact: Donna Ferebee (916) 653-2971

#### CALIFORNIA TAX CREDIT ALLOCATION COMMITTEE

##### Low-Income Housing Tax Credit

This filing by the California Tax Credit Allocation Committee readopts and with amendments their regulations implementing the federal and state low income housing tax credit laws. These regulations are conclusively presumed to be an emergency and effective upon adoption by the Committee on January 18, 2006 pursuant to subdivisions (c) and (d) of Health and Safety Code section 50199.17. These regulations supercede prior emergency regulations and are exempt from the Administrative Procedure Act except as provided in subdivisions (a) and (b) of Health and Safety Code section 50199.17.

##### Title 4

##### California Code of Regulations

ADOPT: 10302(bb), 10305(d), 10305(e), 10315(d), 10315(j), 10320(b), 10322(e), 10325(c), 10325(c)(3)(K), 10325(c)(6), 10325(c)(8), 10325(c)(12), 10325(f)(7), 10325(f)(10),

10325(g)(5)(B)(ii), 10325(g)(5)(B)(iv), 10325(g)(5)(B)(v), 10326(g)(6), 1036(g)(7),  
Filed 03/23/06

Effective 01/18/06

Agency Contact: William J. Pavao (916) 654-6340

#### DEPARTMENT OF CHILD SUPPORT SERVICES

##### Renumbering Definitions

The Department of Child Support Services is moving all of its regulatory definitions to one centralized location in alphabetical order. This involves the movement of 105 regulations within Title 22. They are also making minor corrections to punctuation and grammar.

##### Title 22

##### California Code of Regulations

ADOPT: 110056, 110060, 100604, 110100, 110112, 110116, 110124, 110144, 110148, 110156, 110160, 110168, 110204, 110224, 110228, 110232, 110244, 110248, 110246, 110280, 110288, 110296, 110307, 110311, 110315, 110319, 110323, 110347, 110355, 110383, 110410,

Filed 03/24/06

Effective 03/24/06

Agency Contact: Lucila Ledesma (916) 464-5087

#### DEPARTMENT OF CORRECTIONS AND REHABILITATION

##### Exclusion of a Person From Institution/Facilities

The Department of Corrections and Rehabilitation is amending section 3176.3(b)(5) to correct a cross-reference from 3178(r)(3) to 3178(s)(3).

##### Title 15

##### California Code of Regulations

AMEND: 3176.3

Filed 03/27/06

Effective 03/27/06

Agency Contact:

Timothy M. Lockwood (916) 358-1662

#### DEPARTMENT OF FISH AND GAME

##### Tanner Crab Weight in the Round Conversion Factor

This regulatory action amends section 187 to include a conversion factor for Tanner crab of 161 percent of the weight landed. This amendment is necessary for consistency with the commercial Tanner crab fishing regulations that were recently adopted by the Department. The 161 percent conversion factor reflects the "1.61" "whole-weight conversion factor" adopted in section 126(a)(5)(B) of those regulations for Tanner crab.

##### Title 14

##### California Code of Regulations

AMEND: 187

Filed 03/28/06

Effective 03/28/06

Agency Contact: Scott Barrow (707) 431-4343

**DEPARTMENT OF FOOD AND AGRICULTURE**  
**Mediterranean Fruit Fly Interior Quarantine**

In this Certificate of Compliance filing, the Department of Food and Agriculture amends its regulation pertaining to the "Mediterranean Fruit Fly Interior Quarantine" to add a quarantine area in the San Jose area of Santa Clara County.

Title 3  
California Code of Regulations  
AMEND: 3406(b)  
Filed 03/28/06  
Effective 03/28/06  
Agency Contact: Stephen Brown (916) 654-1017

**DEPARTMENT OF INDUSTRIAL RELATIONS**  
**Workers' Compensation Information System**

This action updates the Workers Compensation Information System protocol whereby claims administrators must transmit reports of injury and payment information to the Workers Compensation Information System by way of electronic data interchange.

Title 8  
California Code of Regulations  
AMEND: 9701, 9702, 9703  
Filed 03/22/06  
Effective 04/21/06  
Agency Contact: Destie Overpeck (415) 703-4659

**DEPARTMENT OF INSURANCE**  
**Actuarial Opinion and Memorandum Regulations**

Department of Insurance proposes repeal of the nine sections comprising 10 CCR secs. 2546 – 2546.8, Life Insurance Yield Comparison Index and Net Payment Cost Comparison Index, as a change without regulatory effect pursuant to 1 CCR sec. 100(a)(6). These provisions were superseded by AB 3234 (Stats. 1996, ch. 1106), which replaced them with new Chapter. 5.6 of the Insurance Code (Code), commencing with sec. 10509.950. This legislation would have expired on January 1, 2000 pursuant to Code sec. 10509.976, but the Legislature repealed that section in SB 374 (Stats. 1999, ch. 868), extending indefinitely the effectiveness of the Code ch. 5.6.

Title 10  
California Code of Regulations  
REPEAL: 2546, 2546.1, 2546.2, 2546.3, 2546.4, 2546.5, 2546.6, 2546.7, 2546.8  
Filed 03/24/06  
Effective 04/23/06  
Agency Contact: George Teekell (415) 538-4390

**DEPARTMENT OF INSURANCE**  
**California Low Cost Automobile Insurance Program Rates**

This emergency regulatory action establishes the uniform rates for the liability policy, uninsured motorists and medical payments coverage under the Low Cost Automobile Insurance Program, to be made available beginning April 1, 2006, in the following counties: Alameda, Fresno, Orange, Riverside, San Bernardino and San Diego.

Title 10  
California Code of Regulations  
ADOPT: 2498.6  
Filed 03/24/06  
Effective 04/01/06  
Agency Contact:  
Mary Ann Shulman (415) 538-4133

**DEPARTMENT OF MOTOR VEHICLES**  
**Clean Air Vehicle Stickers**

This Department of Motor Vehicles proposal amends 13 CCR 156, which provides for statutory-authorized identification stickers for vehicles allowed to be driven regardless of occupancy or ownership in high-occupancy vehicle (HOV) "diamond" lanes. This amendment will reflect vehicle qualification requirements for DMV Clean Air Vehicle Stickers under current state and federal law, add a provision for the color and placement of stickers, and make revisions to the DMV sticker application form.

Title 13  
California Code of Regulations  
AMEND: 156.00  
Filed 03/24/06  
Effective 04/23/06  
Agency Contact: Randi Calkins (916) 657-8898

**DEPARTMENT OF PESTICIDE REGULATION**  
**Data Cost-Sharing**

This regulatory action is to implement and make specific amendments to Section 12811.5 of the Food & Agriculture Code. One regulatory section is being amended and one is being adopted to describe the requirements for dispute resolution procedures for data cost-sharing agreements. Two other sections which were originally submitted as part of this emergency rulemaking, 6312 and 6314, have been removed by the Department from this emergency rulemaking.



Title 3

California Code of Regulations

ADOPT: 6310 AMEND: 6170

Filed 03/23/06

Effective 03/23/06

Agency Contact:

Linda Irokawa-Otani (916) 445-3991

EMPLOYMENT DEVELOPMENT DEPARTMENT  
Taxable Value of Meals and Lodging

Sections 926-3, 926-4, and 926-5 of title 22 of the California Code of Regulations provide the taxable value of meals and lodging furnished to employees by employers. In order to establish the equivalent amount of cash wages paid by employers who pay a portion of their employee's wages in the form of meals and lodging, it is necessary to compute the reasonable cash value of such meals and lodging for unemployment insurance purposes. The Employment Development Department makes this computation each year to reflect the upward or downward trend in the cost of living during the previous year. This regulatory action revises the amounts in the above-cited regulations to make this change based upon the United States Department of Labor, Bureau of Labor Statistics, average retail food price index and average residential rent index for the fiscal year ending June 30, 2005.

Title 22

California Code of Regulations

AMEND: 926-3, 926-4, 926-5

Filed 03/23/06

Effective 01/01/06

Agency Contact: Laura Colozzi (916) 654-7712

FISH AND GAME COMMISSION

Trawl Nets Inside the Golden Gate Bridge

This regulation is being amended to open a small section to commercial shrimp trawlers that was previously off limits. The goal is to increase the take of Bay shrimp for commercial fishermen. This fishery targets Bay shrimp (*Crangon* sp) and several species of bait fish. This rulemaking also adds an additional species of bait fish — the plainfin midshipman — to the allowable species under the permit that limits trawl nets to certain districts. There are also some minor changes made — the deletion of a reference to the Menlo Park office which no longer exists and the removal of some language that restates Fish and Game Code §7857(k).

Title 14

California Code of Regulations

AMEND: 119, Appendix A

Filed 03/22/06

Effective 04/21/06

Agency Contact: Sherrie Koell (916) 653-4899

FISH AND GAME COMMISSION

Herring Transfer Fee

This action amends existing procedures for herring permit transfers and reduces the herring permit transfer fee to \$1000.

Title 14

California Code of Regulations

AMEND: 163.1

Filed 03/27/06

Effective 03/27/06

Agency Contact: Jon Snellstrom (916) 653-4899

NEW MOTOR VEHICLE BOARD

Hearings by Board or Administrative Law Judge

This rulemaking is designed to eliminate the authority of the Executive Director of the NMVB from conducting hearings on protests. This change is being made in response to the 1996 Performance Audit conducted by the Business, Transportation & Housing agency that recommended that all duties related to hearing Board cases should be eliminated from the duties of the executive director. This amends 13 CCR 590 to strike, "executive director of the board," as a person entitled to conduct hearings on protests.

Title 13

California Code of Regulations

AMEND: 590

Filed 03/24/06

Effective 04/23/06

Agency Contact:

Howard Weinberg (916) 445-2080

OFFICE OF ADMINISTRATIVE HEARINGS

Public Works Contract Arbitrations

This regulatory action makes revisions to the standards and qualifications of arbitrators certified by the Public Works Contract Arbitration Committee to make experience as an arbitrator or adjudicator of disputes arising out of public works construction projects mandatory. Other changes include eliminating experience (1) as an attorney representing parties in "negotiating" public works construction contract claims or (2) as a judge or arbitrator adjudicating or otherwise resolving large scale "commercial" litigation from that which counts towards the experience required for arbitrators certified by the Public Works Contract Arbitration Committee.

Title 1

California Code of Regulations

AMEND: 1395

Filed 03/28/06

Effective 04/27/06

Agency Contact: Margaret Farrow (916) 445-4926

**OFFICE OF ADMINISTRATIVE LAW**

**Administrative Rulemaking by State Agencies**

This action amends the rule describing the procedure for OAL's consideration of a public comment during its review of an emergency filing and adopts a new Chapter 2 named Underground Regulations, establishing the procedure and standards for OAL's consideration of a petition objecting to an agency's use of an improperly adopted regulation.

**Title 1**

California Code of Regulations

ADOPT: 250, 260, 270, 280 AMEND: 55

Filed 03/27/06

Effective 03/27/06

Agency Contact: Bill Gausewitz

**SPEECH-LANGUAGE PATHOLOGY AND  
AUDIOLOGY BOARD**

**Citations and Fines**

This action amends the Speech-Language Pathology and Audiology Board's existing provisions governing the citation and administrative fine process authorized by Business and Professions Code section 125.9.

**Title 16**

California Code of Regulations

ADOPT: 1399.159.01 AMEND: 1399.159,  
1399.159.1 REPEAL: 1399.159.4

Filed 03/29/06

Effective 04/28/06

Agency Contact: Kathi Burns (916) 263-2666

**STATE WATER RESOURCES CONTROL BOARD**

**Orpan Site Cleanup Account**

This readopts emergency regulations (OAL file no. 05-1117-01E) that established the grant program for the removal of leaking petroleum underground storage tanks (UST) and the investigation and cleanup of petroleum contamination from USTs at sites that qualify as Brownfields. The emergency regulations establish general definitions, eligibility requirements, a priority system for paying eligible applicants, funding limitations, and define the types of costs that qualify for funding.

**Title 23**

California Code of Regulations

ADOPT: 2814.20, 2814.21, 2814.22, 2814.23,  
2814.24, 2814.25, 2814.26, 2814.27, 2814.28,  
2814.29, 2814.30, 2814.31, 2814.32, 2814.33,  
2814.34, 2814.35, 2814.36, 2814.37

Filed 03/22/06

Effective 03/28/06

Agency Contact: Lori Brock (916) 341-5158

**STATE WATER RESOURCES CONTROL BOARD**

**Central Valley Water Quality Control Plan**

This amendment to the Water Quality Control Plan for the Central Valley Region for the Sacramento and San Joaquin River Basins (Basin Plan) that established site-specific objectives for temperature for Deer Creek, located in El Dorado and Sacramento Counties, will change the word "discharges" to the words "controllable factors" in the following sentence: "For Deer Creek, source to Consumers River, temperature changes due to discharges controllable factors shall not cause creek temperatures to exceed the objectives specified in Table III-4A."

**Title 23**

California Code of Regulations

ADOPT: 3944.2

Filed 03/28/06

Effective 03/28/06

Agency Contact: Joanna Jensen (916) 657-1036

**CCR CHANGES FILED  
WITH THE SECRETARY OF STATE  
WITHIN OCTOBER 26, 2005 TO  
MARCH 29, 2006**

All regulatory actions filed by OAL during this period are listed below by California Code of Regulation's titles, then by date filed with the Secretary of State, with the Manual of Policies and Procedures changes adopted by the Department of Social Services listed last. For further information on a particular file, contact the person listed in the Summary of Regulatory Actions section of the Notice Register published on the first Friday more than nine days after the date filed.

**Title 1**

03/28/06 AMEND: 1395

03/27/06 ADOPT: 250, 260, 270, 280 AMEND: 55

12/29/05 AMEND: 1038

**Title 2**

03/14/06 ADOPT: 1859.70.3, 1859.71.5,  
1859.78.9, 1859.93.2, 1859.93.3  
AMEND: 1859.2, 1859.61, 1859.74,  
1859.77.1, 1859.79, 1859.79.2, 1859.83,  
1859.104, 1859.202, 1859.66

03/08/06 AMEND: 56, 56.1, 56.2, 56.3, 56.4, 56.5,  
56.6, 56.7, 56.8

02/28/06 AMEND: 57.1, 57.2, 57.3, 57.4

02/21/06 ADOPT: 18371

02/21/06 REPEAL: 2550, 2551, 2552, 2553, 2554,  
2555, 2556

02/21/06 AMEND: 2320(a) (2)

02/21/06 ADOPT: 18361.10

02/16/06 AMEND: Div. 8, Ch. 58, Sec. 54700

01/30/06	AMEND: Div. 8, Ch. 103, Sec. 59150	<b>Title 4</b>	
01/24/06	REPEAL: 649.23, 649.25, 649.26, 649.27	03/24/06	ADOPT: 10175, 10176, 10177, 10178, 10179, 10180, 10181, 10182, 10183, 10184, 10185, 10186, 10187, 10188, 10189, 10190, 10191
01/23/06	AMEND: 18351		
01/20/06	AMEND: 1897		
01/17/06	AMEND: Div. 8, Ch. 64, Sec. 55300	03/23/06	ADOPT: 10302(bb), 10305(d), 10305(e), 10315(d), 10315(j), 10320(b), 10322(e), 10325(c), 10325(c)(3)(K), 10325(c)(6), 10325(c)(8), 10325(c)(12), 10325(f)(7), 10325(f)(10), 10325(g)(5)(B)(ii), 10325(g)(5)(B)(iv), 10325(g)(5)(B)(v), 10326(g)(6), 1036(g)(7),
01/17/06	ADOPT: 560 REPEAL: 560		
12/29/05	AMEND: 18329.5, 18701, 18751	02/28/06	AMEND: 4143
12/21/05	AMEND: 599.960, 599.961	01/25/06	ADOPT: 12002, 12004, Appendix A AMEND: 12100, 12200, 12220, 12300
12/20/05	AMEND: 18700, 18707, 18708		
12/12/05	ADOPT: 20108, 20108.1, 20108.12, 20108.15, 20108.18, 20108.20, 20108.25, 20108.30, 20108.35, 20108.36, 20108.37, 20108.38, 20108.40, 20108.45, 20108.50, 20108.51, 20108.55, 20108.60, 20108.65, 20108.70, 20108.75, 20108.80	01/20/06	ADOPT: 1843.6
		01/09/06	ADOPT: 1902.5
11/16/05	AMEND: 1181	01/09/06	ADOPT: 1690.1
11/07/05	ADOPT: 1859.300, 1859.301, 1859.302, 1859.310, 1859.311, 1859.312, 1859.313, 1859.314, 1859.315, 1859.316, 1859.317, 1859.318, 1859.319, 1859.320, 1859.321, 1859.322, 1859.323, 1859.323.1, 1859.323.2, 1859.324, 1859.325, 1859.326, 1859.327, 1859.328,	12/29/05	AMEND: 8070, 8071, 8072, 8073, 8074, 8076
		12/21/05	ADOPT: 12359
11/07/05	AMEND: 20107	12/14/05	AMEND: 7075, 7082, 7084, 7092, 7093, 7094, 7098
10/31/05	AMEND: 1859.2, 1859.81, 1866	12/05/05	AMEND: 1977
10/27/05	AMEND: 1859.2, 1859.51, 1859.104.3, 1859.147, 1859.202, 1866, Form SAB 50-01	12/05/05	REPEAL: 1959.5, 1959.6, 1959.7, 1959.8, 1976.5, 1976.7
		11/28/05	ADOPT: 7075, 7076, 7077, 7078, 7079, 7079, 7080, 7081, 7082, 7083, 7084, 7085, 7086, 7087, 7088, 7089, 7090, 7091, 7092, 7093, 7094, 7095, 7096, 7097, 7098, 7099 REPEAL: 7000, 7001, 7003, 7004, 7005, 7006, 7007, 7008, 7009, 7010, 7011, 7012, 7013, 7013.
<b>Title 3</b>		11/28/05	ADOPT: 503, 512, 515, 516, 517, 518, 519, 523, 524 AMEND: 500, 501, 502, 510, 513, 514, 520, 552, 530, 531, 533 REPEAL: 521
03/28/06	AMEND: 3406(b)		
03/23/06	ADOPT: 6310 AMEND: 6170	11/23/05	AMEND: 4083
03/07/06	AMEND: 3700(c)	11/01/05	ADOPT: 10300, 10302, 10310, 10315, 10317, 10320, 10322, 10325, 10326, 10327, 10335, 10337
03/01/06	AMEND: 3406(b)		
02/22/06	AMEND: 3406(b)	10/27/05	ADOPT: 7030, 7031, 7032, 7033, 7034, 7035, 7036, 7037, 7038, 7039, 7040, 7041, 7042, 7043, 7044, 7045, 7046, 7047, 7048, 7049, 7050 AMEND: 7047, 7048 REPEAL: 7049
02/21/06	AMEND: 3433(b)		
02/21/06	AMEND: 3700(c)	10/27/05	ADOPT: 9001, 9005, 9006, 9007, 9025, 9027, 9050, 9051, 9052, 9053, 9054, 9055, 9056, 9057, 9058, 9059, 9060, 9061, 9062, 9063, 9064, 9065, 9066, 9067, 9068, 9069, 9070 AMEND: 9020, 9030, 9031, 9032, 9041, 9043
02/21/06	ADOPT: 3591.19(a)(b)(c) AMEND: 3591.19(a)		
02/16/06	ADOPT: 3433		
02/07/06	AMEND: 6502		
02/02/06	AMEND: 3700(c)		
01/12/06	AMEND: 6393, 6394, 6395, 6396		
12/28/05	AMEND: 3406(b)		
12/28/05	ADOPT: 6576, 6950		
12/15/05	AMEND: 6400		
12/13/05	AMEND: 3700(c)		
12/01/05	AMEND: 3700(c)		
11/23/05	AMEND: 3406(b)		

**Title 5**

03/16/06 ADOPT: 1207.1, 1207.2 AMEND: 1204.5  
 03/16/06 ADOPT: 15566, 15567, 15568, 15569  
 02/17/06 ADOPT: 19827 AMEND: 19814, 19814.1, 19851, 19853  
 01/19/06 ADOPT: 11987, 11987.1, 11987.2, 11987.3, 11987.4, 11987.5, 11987.6, 11987.7  
 12/30/05 AMEND: 58050, 58164, 58168, 58170, 58172  
 12/29/05 ADOPT: 4680, 4681, 4682, 4683, 4684, 4685, 4686, 4687 AMEND: 4600, 4610, 4611, 4620, 4621, 4622, 4630, 4631, 4632, 4633, 4640, 4650, 4651, 4660, 4662, 4663, 4664, 4665, 4670, 4910 REPEAL: 4661, 4671  
 12/12/05 ADOPT: 80033.2  
 12/07/05 AMEND: 43810  
 12/06/05 ADOPT: 11963.5 AMEND: 11704, 11963.2, 11963.3, 11963.4, 11963.5, 11963.6  
 11/17/05 AMEND: 41301 REPEAL: 41303, 41304  
 11/15/05 AMEND: 6111  
 11/10/05 AMEND: 19826.1

**Title 8**

03/22/06 AMEND: 9701, 9702, 9703  
 03/15/06 AMEND: 1710(f)  
 03/14/06 ADOPT: 9783.1 AMEND: 9780, 9780.1, 9781, 9782, 9783 REPEAL: 9780.2, 9784  
 02/28/06 AMEND: 1644  
 02/27/06 AMEND: 3637, 3638, 3639, 3640, 3642, 3646  
 02/22/06 ADOPT: 8397.14, 8397.15, 8397.16 AMEND: 8354, 8397.12  
 02/14/06 AMEND: 31100  
 02/09/06 ADOPT: 296.0 296.1, 296.2, 296.3, 296.4 AMEND: 290.1, 291.1, 291.2, 291.3, 291.4, 291.5, 292.0, 293.0, 295.0  
 02/09/06 AMEND: 15201, 15300, 15400, 15400.2, 15402.4, 15450.1, 15452, 15454, 15463  
 01/27/06 AMEND: 100, 102  
 01/27/06 AMEND: 1518  
 01/25/06 AMEND: 1635  
 12/20/05 AMEND: 3395  
 12/14/05 AMEND: 6632(f)  
 12/13/05 AMEND: 20299  
 12/05/05 AMEND: 4650  
 11/22/05 ADOPT: 13694

11/22/05 ADOPT: 13680, 13681, 13682, 13683, 13684, 13685, 13686, 13687, 13688, 13689, 13690, 13691, 13692, 13693

**Title 9**

01/23/06 AMEND: 3400  
 01/19/06 AMEND: 400  
 12/30/05 ADOPT: 3100, 3200.000, 3200.010, 3200.020, 3200.030, 3200.040, 3200.050, 3200.060, 3200.070, 3200.080, 3200.090, 3200.100, 3200.110, 3200.120, 3200.130, 3200.140, 3200.150, 3200.160, 3310, 3400, 3405, 3410, 3415

**Title 10**

03/24/06 REPEAL: 2546, 2546.1, 2546.2, 2546.3, 2546.4, 2546.5, 2546.6, 2546.7, 2546.8  
 03/24/06 ADOPT: 2498.6  
 03/09/06 AMEND: 2697.6  
 02/28/06 ADOPT: 2713, 2715.5, 2797, 2841.5, 3012.3 AMEND: 2716.5, 2770, 2791, 2792.32, 2795.1, 2846.1, 2846.5, 2846.7, 2849.01, 2930 REPEAL: 2708, 2709, 2821, 2822  
 02/27/06 AMEND: 2632.5 (c) (1) (A)  
 02/09/06 AMEND: 2699.6600  
 01/31/06 ADOPT: 310.100.4, 310.114.4 AMEND 310.101  
 01/25/06 ADOPT: 2025, 2026, 2027, 2028, 2029, 2030  
 01/23/06 AMEND: 2698.99  
 01/23/06 ADOPT: 2592, 2592.01, 2592.02, 2592.03, 2592.04, 2592.05, 2592.06, 2592.07, 2592.08, 2592.09, 2592.10, 2592.11, 2592.12, 2592.13, 2592.14  
 01/20/06 AMEND: 2498.6  
 12/28/05 AMEND: 2498.5  
 12/13/05 AMEND: 2312, 2312.5, 2315  
 11/23/05 AMEND: 260.210, 260.211, 1726, 1950.122, 2020  
 11/16/05 AMEND: 2699.6600, 2699.6809  
 11/15/05 AMEND: 2690.1  
 11/03/05 ADOPT: 2698.95.1, 2698.95.11, 2698.95.12, 2698.96, 2698.97, 9698.97.1, 2698.98, 2698.98.1 AMEND: 2698.95

**Title 11**

03/15/06 AMEND: 351, 357, 371, 376, 377, 378, 380  
 02/22/06 AMEND: 51.19  
 02/09/06 AMEND: 1001, 1015 REPEAL: 1020, 1021  
 01/31/06 ADOPT: 64.2



01/19/06	AMEND: 1005	18459, 18459.1, 18459.2.1, 18459.3,
01/11/06	ADOPT: 116.2	18460.1, 18460.1.1, 18460.2, 18460.2.1,
01/09/06	AMEND: 999.1, 999.2, 999.3, 999.4	18461, 18462, 18463, 18464, 18466,
12/22/05	AMEND: 1005, 1007, 1008, D-1, D-10, D-14	Penalty Tables 1&2
12/15/05	AMEND: 51.12	02/08/06 AMEND: 2310
12/01/05	ADOPT: 116.1	12/22/05 AMEND: 11900
11/22/05	ADOPT: 49.17	12/19/05 ADOPT: 163.1 AMEND: 163, 164
<b>Title 13</b>		12/06/05 ADOPT: 4970.02, 4970.03, 4970.04,
03/24/06	AMEND: 156.00	4970.05, 4970.06, 4970.07, 4970.08,
03/24/06	AMEND: 590	4970.09, 4970.10, 4970.11, 4970.12,
02/22/06	ADOPT: 225.35 AMEND: 225.03, 225.09, 225.12, 225.18, 225.21, 225.42, 225.45, 225.48, 225.51, 225.54, 225.72	4970.13, 4970.14, 4970.15, 4970.16, 4970.17, 4970.18, 4970.19, 4970.20, 4970.21 AMEND: 4970.00, 4970.01
02/22/06	AMEND: 345.39, 345.45, 345.56, 345.78	REPEAL: 4970.02, 4970.03, 4970.04, 4970.05
02/15/06	ADOPT: 1971.1	12/02/05 AMEND: 18660.5, 18660.6, 18660.10, 18660.20, 18660.21, 18660.22, 18660.36, 18660.37
02/14/06	ADOPT: 152.00, 190.03, 268.10, 268.12, 280.12, 285.06, 292.06, 340.13 AMEND: 330.08, 345.65 REPEAL: 330.10, 345.67	11/30/05 ADOPT: 957.11, 957.12 AMEND: 957
01/31/06	ADOPT: 2023, 2023.1, 2023.2, 2023.3, 2023.4 AMEND: 1956.1, 2020, 1021 REPEAL: 1956.2, 1956.3, 1950.4	11/16/05 AMEND: 913.2 [933.2, 953.2], 913.11 [933.11, 953.11]
01/30/06	AMEND: 77.05, 77.10, 77.15, 77.16, 77.17	11/09/05 ADOPT: 1038(i) AMEND: 1038.2, 1038(e)
01/18/06	AMEND: 553.70	11/02/05 AMEND: 632
01/13/06	AMEND: 2467, 2467.1	11/01/05 ADOPT: 2.45, 251.9
01/12/06	ADOPT: 1875	10/31/05 AMEND: 180.1
01/12/06	AMEND: 970	10/26/05 AMEND: 2516
12/16/05	ADOPT: 253.02 AMEND: 345.16	<b>Title 15</b>
12/07/05	ADOPT: 2425.1 AMEND: 2420, 2421, 2423, 2425, 2426, 2427, Incorporated Test Procedures	03/27/06 AMEND: 3176.3
12/05/05	AMEND: 425.01	01/25/06 AMEND: 3482
11/08/05	AMEND: 550, 551.11, 551.12	01/19/06 AMEND: 3370
10/27/05	AMEND: 2453, 2455	01/17/06 AMEND: 3000, 3062, 3075, 3210
<b>Title 14</b>		12/15/05 AMEND: 3335
03/28/06	AMEND: 187	12/05/05 AMEND: 3173.1
03/27/06	AMEND: 163.1.	11/21/05 ADOPT: 3999.2
03/22/06	AMEND: 119, Appendix A	11/01/05 AMEND: 3287
03/20/06	AMEND: 27.82	<b>Title 16</b>
03/20/06	ADOPT: 5.81, 27.92 AMEND: 5.80, 27.60, 27.90, 27.95	03/29/06 ADOPT: 1399.159.01 AMEND: 1399.159, 1399.159.1 REPEAL: 1399.159.4
03/20/06	AMEND: 27.82	03/21/06 AMEND: 1914, 1918, 1920, 1950, 1983, 1991, 1993, 1998
03/02/06	ADOPT: 1.60, 1.61, 1.93 AMEND: 1.71	03/14/06 REPEAL: 1530
03/01/06	AMEND: 851.23	03/13/06 REPEAL: 1515
02/23/06	AMEND: 2000, 2090, 2105, 2110, 2401, 2420, 2425, 2430, 2501, 2530, 2535, 2540, 2850	03/13/06 ADOPT: 1034.1 AMEND: 1021, 1028, 1034
02/10/06	AMEND: 895, 895.1, 1038, 1038(f)	03/13/06 ADOPT: 1399.25
02/09/06	ADOPT: 18459.1.2, Forms 203, 204 AMEND: 18449, 18450, 18451, 18453.2, 18456, 18456.2.1, 18457,	03/10/06 AMEND: 1566, 1566.1
		03/09/06 AMEND: 3351.3 and 3351.4
		03/02/06 ADOPT: 2524.1, 2579.11
		02/27/06 AMEND: 1043, 1043.1, 1043.2, 1043.3, 1043.4, 1043.6
		02/24/06 AMEND: 3008, 3031, 3062.1
		02/21/06 AMEND: 1833.1, 1870, 1870.1

02/07/06 ADOPT: 1379.19  
 01/12/06 AMEND: 1313.01  
 01/05/06 AMEND: 1399.710  
 12/30/05 AMEND: 119.6, 120  
 12/30/05 AMEND: 1820, 1970.4, 1991, 1996  
 12/27/05 AMEND: 3005  
 12/15/05 ADOPT: 1399.454 AMEND: 1399.434,  
 1399.436, 1399.450, 1399.451  
 12/13/05 AMEND: 3005  
 12/12/05 ADOPT: 26, 27, 28, 29, 30, 31, 32, 33, 34,  
 35, 35.1 AMEND: 70, 98  
 12/02/05 ADOPT: 3067  
 11/30/05 AMEND: 2542, 2542.1, 2547, 2547.1  
 11/29/05 AMEND: 1397.61(f)  
 11/21/05 AMEND: 1397.61(a)  
 11/18/05 AMEND: 1364.11  
 11/15/05 AMEND: 69, 75.5, 87.5, 89, 89.1, 95,  
 95.2, 95.3, 95.4

**Title 17**

12/29/05 ADOPT: 30105  
 11/10/05 AMEND: 54355, 56002, 56040

**Title 18**

02/09/06 AMEND: 4055, 4056, 4057, 4058, 4059,  
 4060, 4061  
 01/10/06 AMEND: 1S84  
 12/29/05 AMEND: 1620  
 12/27/05 ADOPT: 1823.4  
 12/09/05 ADOPT: 25106.5–11

**Title 20**

01/12/06 AMEND: 79, 80  
 01/03/06 ADOPT: 1362, 1363.1, 1363.2, 1365.1,  
 Appendix C AMEND: 1364, 1366,  
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 1368.5  
 12/30/05 AMEND: 1601, 1602, 1603, 1604,  
 1605.1, 1605.2, 1605.3, 1606, 1607,  
 1608

**Title 22**

03/24/06 ADOPT: 110056, 110060, 100604,  
 110100, 110112, 110116, 110124,  
 110144, 110148, 110156, 110160,  
 110168, 110204, 110224, 110228,  
 110232, 110244, 110248, 110246,  
 110280, 110288, 110296, 110307,  
 110311, 110315, 110319, 110323,  
 110347, 110355, 110383, 110410,  
 03/23/06 AMEND: 926–3, 926–4, 926–5  
 03/20/06 AMEND: 66264.147, 66264.151,  
 66265.147  
 03/09/06 ADOPT: 12900  
 03/07/06 AMEND: 100058, 100066, 100078,  
 100079

02/02/06 AMEND: 97170, 97172, 97174, 97178,  
 97180, 97184, 97188, 97190, 97198  
 01/31/06 ADOPT: 66250.1, 66250.2  
 01/23/06 AMEND: 51510, 51510.1, 51511,  
 51511.5, 51511.6, 51535, 51535.1,  
 51544, 54501  
 01/20/06 AMEND: 4448  
 01/17/06 AMEND: 14000  
 01/17/06 AMEND: 12000  
 12/30/05 ADOPT: 67384.1, 67384.2, 67384.3,  
 67384.4, 67384.5, 67384.6, 67384.7,  
 67384.8, 67384.9, 67384.10, 67384.11  
 12/27/05 ADOPT: 66262.44 AMEND: 66261.111,  
 66262.10  
 12/19/05 ADOPT: 66264.151 AMEND:  
 66264.115, 66264.120, 66264.143,  
 66264.145, 66264.147, 66265.115,  
 66265.120, 66265.143, 66265.145,  
 66265.147, 67450.13, 67450.30,  
 67450.49  
 11/10/05 ADOPT: 51000.6.1, 51000.10.1,  
 51000.15.1, 51000.20.1, 51000.24.1,  
 5100.25.1, 51000.25.2, 51000.31,  
 51000.32, 51000.51, 51000.52,  
 51000.53, 51000.55, 51000.60, 51051  
 AMEND: 51000.1, 51000.1.1, 51000.3,  
 51000.4, 51000.6, 51000.7, 51000.16,  
 51000.30, 51000

**Title 23**

03/28/06 ADOPT: 3944.2  
 03/22/06 ADOPT: 2814.20, 2814.21, 2814.22,  
 2814.23, 2814.24, 2814.25, 2814.26,  
 2814.27, 2814.28, 2814.29, 2814.30,  
 2814.31, 2814.32, 2814.33, 2814.34,  
 2814.35, 2814.36, 2814.37  
 03/13/06 ADOPT: 3939.21  
 02/01/06 ADOPT: 3989.3  
 01/20/06 ADOPT: 3939.17  
 12/27/05 ADOPT: 3939.16  
 12/20/05 ADOPT: 3957  
 12/15/05 ADOPT: 3939.18  
 12/09/05 ADOPT: 3939.19  
 12/09/05 ADOPT: 3939.20  
 12/02/05 ADOPT: 3989.2  
 12/01/05 ADOPT: 3939.15  
 11/28/05 ADOPT: 2814.20, 2814.21, 2814.22,  
 2814.23, 2814.24, 2814.25, 2814.26,  
 2814.27, 2814.28, 2814.29, 2814.30,  
 2814.31, 2814.32, 2814.33, 2814.34,  
 2814.35, 2814.36, 2814.37

**Title 25**

02/07/06 AMEND: 1001

12/19/05	ADOPT: 11101, 13302 AMEND: 19200, 19201, 19202, 19203, 19204, 19205, 19206, 19207, 19300, 19301, 19400	<b>Title MPP</b>	
12/07/05	AMEND: 1338.1 REPEAL: 1433.1	02/10/06	AMEND: 63-103.2, 63-300.5, 63-402.229, 63-503.441, 63-509(b), 63-509(c), 63-801.737(QR)
11/07/05	AMEND: 5002, 5020, 5021, 5340, 5348	01/23/06	AMEND: 42-101
<b>Title 27</b>		01/12/06	AMEND: 11-400, 11-402, 11-403, and 11-406
01/13/06	ADOPT: 15241, 15242		
11/17/05	AMEND: 21685		
<b>Title 28</b>			
12/14/05	AMEND: 1300.75.4		